

Attachment 1

Minutes

City of Loma Linda

Department of Community Development

Planning Commission

A regular meeting of the Planning Commission was called to order by Chair Michael Chistianson at 7:05 p.m., **Wednesday, October 5, 2005**, in the City Council Chambers, 25541 Barton Road, Loma Linda, California.

Commissioners Present: Michael Christianson, Chair
Mary Lee Rosenbaum
Frank Povero
David Werner

Commissioners Absent: Rene Sakala

Staff Present: Richard Holdaway, City Attorney
Deborah Woldruff, Community Development Director
H.P. Kang, Senior Planner
Raul Colunga, Assistant Planner
Allan Peñaflorida, Planning Technician
Jeff Peterson, Associate Engineer, Public Works Dept.
Jocelyne Larabie, Administrative Secretary

ITEMS TO BE DELETED OR ADDED

There were no items to be added or deleted.

ORAL REPORTS/PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

There was no public participation.

CONTINUED ITEMS

PUBLIC HEARING

PC-05-45 - GENERAL PLAN AMENDMENT (GPA) NO. 04-07, PRECISE PLAN OF DESIGN (PPD) NO. 04-15, VARIANCE (VAR) NO. 05-02 & DEVELOPMENT AGREEMENT (CREEKVIEW APARTMENTS)

Assistant Planner Colunga provided the staff report and described the project as a request to demolish two existing structures, one at 10684 Ohio and one at 10690 Ohio Street. He also provided photographs illustrating other duplexes, apartment units in the neighborhood and single-family homes in the surrounding area.

Mr. Colunga reported that the current General Plan designation for the site was Medium Density Residential, which allows 5-10 dwelling units per acre and that the current zoning was R-3,

Multiple Family Residence, which allows 5-10 dwelling units per acre. He added that at this density, the site would yield a maximum of five dwelling units on 0.57 acres and as part of the General Plan Update, the density would be decreased to 5.1- 9 dwelling units per acre. He commented that the request to allow the 12 units to be built on half an acre of land amounted to "Spot Zoning," which was not allowed under State law and that the City could not support.

Mr. Colunga provided the definition of Spot Zoning, which is defined as the awarding of a use classification to an isolated parcel of land which is detrimental or incompatible with the uses of the surrounding area, particularly when such an act favors a particular owner. Such zoning has been held to be illegal by the courts on the grounds that it is unreasonable and capricious. A general plan or special circumstance such as historical value, environmental importance, or scenic value would justify special zoning for a small area.

Mr. Colunga added that in order to comply with the proposed density, the project was limited to five dwelling units plus a twenty-five percent density bonus to provide affordable housing units, which would limit the project to a total of six units, which is 50 percent less than the proposed project size.

Mr. Colunga continued to say that the project was a Mediterranean style 12-unit apartment complex at the end of Ohio Street adjacent to the San Timoteo Creek channel. He added that all the apartment units were two bedrooms designed in excess of 1,000 square feet exceeding the R-3 zoning standard requirements of a minimum of 850 square feet, that the units were both single-story and two-story and that the required 30 parking spaces were all concealed behind the two ground floor units. He referenced the table provided in the staff report for a breakdown of the units.

Mr. Colunga indicated that access to the second floor apartments was by a staircase at the front and the rear of the building, leading to the landscaped courtyard area. He pointed out that the floor plans, other elevations and site plans along with the sample material board were provided to the Commission.

Mr. Colunga explained that he had spoken to one of the adjacent property owner who expressed concerns with privacy relative to the west facing units and Mr. Colunga stated that unit D was a single story unit with a balcony facing the west and unit B on the north side did not have any windows or balconies to the west.

Mr. Colunga concluded his report stating that the landscape plan showed a variety of plant species and sizes, a lattice structure and parking space in the front setback with palm trees and other trees in the pool area and along the rear property line.

Director Woldruff explained that staff's recommendation to deny the project was based on the density issues.

Chair Christianson opened the public comment period at 7:20 p.m.

Miguel Rojas, Miguel Rojas, 25547 Orange Crest Way, Loma Linda stated that he was representing the applicant, Mr. Haddad and was the architect for the project. He presented a map which illustrated all of the multi-family projects in the vicinity of the project site and stated that the density being requested was consistent with others in the neighborhood and that the owner wished to enhance the redevelopment area by building a quality project. He added the

apartments would have a manager on site, that each unit had a private outdoor space, and that the units all exceeded the required 850 square feet in size.

A discussion ensued regarding access to the units' parking areas, the pedestrian entrances to the complex, the width of Ohio Street and the issue of the likelihood of tenants parking on the street. Mr. Rojas pointed to on-site amenities such as the gazebo area furnished with a picnic table and a small garden area where tenants could plant a flower and/or vegetable garden.

Khalid Sayegh, 7779 Calle Carrisa, Highland CA 92346, addressed the Commission stating that he worked for Mr. Haddad and that Mr. Rojas had designed a good project, which would set high standards for the redevelopment area. He encouraged the Commission to approve the project.

Oscar Carma, 10654 Lind Avenue, Loma Linda stated that his property was behind the project property and that he had concerns about privacy and noise issues because of the recreation area proposed for that part of the site. He asked if a taller wall would be appropriate to mitigate those issues. Mr. Rojas replied that a wall was already being proposed.

Fred Ramos, 26445 First Street, Bryn Mawr stated that although it was a good project he did have some concerns. His first concern was the proximity of the San Timoteo Creek channel on the south side of the project in the event of a devastating flood such as the one in 1969; he suggested the need of a much higher wall for better protection. He added that motorcyclists also used the channel as a trail. His second concern was with the two families being displaced by the demolition of the two houses on the lot. His third issue was with affordable housing asking how long the affordable rents would last and finally Mr. Ramos commented that the street was old and very narrow and may not be able to accommodate the increase in traffic.

Director Woldruff responded to Mr. Ramos' concerns regarding affordable housing stating that any units deemed affordable were covered in a Development Agreement that the project applicant would commit to, would be in effect for a period of 45 years and the rent would be controlled by the Redevelopment Agency Director. City Attorney Holdaway added that the current residents could apply to rent one of the units if they met the qualification for affordable housing.

Commissioner Werner asked staff how the number of affordable units was determined. Director Woldruff explained that an applicant had to set aside 15% of the total number of units as affordable units and that the calculation for setting the amount of the rent was determined by the Redevelopment Director and their housing consultant and was very complex. She added that a developer also had the option to pay fees in-lieu of affordable units. She indicated that the Redevelopment Agency Director and her consultant could be asked to present an overview of the City' and the State's regulations to the Planning Commission.

Chair Christianson commented that staff had worked diligently with the applicant and Mr. Rojas to create a quality project. He added that the Planning Commission relied heavily on the findings that staff provided in the staff report.

City Attorney Holdaway explained to the Planning Commission that in order to deny an application any one finding of inconsistency would be adequate to support the denial. He added that it was appropriate to address all of the findings and to incorporate them into an action if the Commission were in agreement with those findings.

Commissioner Werner indicated that he couldn't disagree with finding No. 1 – "The proposed amendment is internally consistent with the General Plan" because of the density being required was twice the density permitted by the General Plan and added that one of his concerns was the parking issue and that a lot of the tenants would be parking in the street. He added that this was a good project but proposed for the wrong area.

Motion by Werner, seconded by Rosenbaum, and unanimously carried to deny General Plan Amendment (GPA) No. 04-07, Precise Plan of Design (PPD) No. 04-15, Variance (VAR) No. 05-02 and the Development Agreement based on the findings for each request. (Sakala absent)

Director Woldruff explained to the Commission that the Municipal Code stated that if the project included a legislative act such as the General Plan Amendment, and it was denied, the Planning Commission had the option of taking an action to forward the project to the City Council without prejudice. Attorney Holdaway clarified that the applicant would have the right to file an appeal, however he would not have to do so if the Planning Commission were to take an action to forward the matter to the City Council.

Motion by Werner, seconded by Rosenbaum, and carried by a vote of 4-0 to forward the matter without prejudice to the City Council. (Sakala absent)

NEW ITEMS

PC-05-46 - PRECISE PLAN OF DESIGN (PPD) NO. 05-06 (Spreen Honda)

Senior Planner Kang presented the staff report and explained that Precise Plan of Design (PPD) 05-06 was a request to demolish the existing Spreen Honda dealership storefront, interior offices, service write-up kiosk and add approximately 26,000 square feet of space that included a new 10,165 square foot showroom and offices, a 6,870 square foot car-wash and detailing building, and a 1,380 square foot four-bay express lube center. He added that the dealership was located on the north side of Redlands Boulevard at 25050 Redlands Boulevard, in the East Valley Specific Plan General Plan Land Use Designation and the General Commercial (CG) zone.

Chair Christianson announced that he would recuse himself from the discussion because he was the owner of the property south of Redlands Boulevard across from the dealership. Vice Chair Werner directed the meeting for this item.

Mr. Kang explained that the new architecture would be consistent with the Honda Corporate design in a Blue/white/silver color scheme with a tower element displaying the Honda emblem. Mr. Kang also presented the proposed landscape plan, which included new landscaping on the west side required because of the addition of the new lube express building and other facilities.

Mr. Kang stated that there was a minor change to condition No. 17 to correct the number of parking spaces to reflect the accurate calculation of 329 required standard parking spaces, and seven accessible spaces.

Mr. Greg Spreen, 2 Oakmont Lane, Newport Beach, dealership owner and applicant, addressed the Planning Commission to comment that the expansion was greatly needed and the existing building in a great need of renovation since the building was 18 years old. He thanked the Commission for their consideration of the matter.

Attachment 2

Staff Report

City of Loma Linda

From the Department of Community Development

PLANNING COMMISSION MEETING OF OCTOBER 5, 2005

TO: PLANNING COMMISSION

FROM: DEBORAH WOLDRUFF, AICP, DIRECTOR *DW*

SUBJECT: GENERAL PLAN AMENDMENT (GPA) NO. 04-07, PRECISE PLAN OF DESIGN (PPD) NO. 04-15, VARIANCE (VAR) NO. 05-02 & DEVELOPMENT AGREEMENT (CREEKVIEW APARTMENTS) – A request to demolish two existing homes and build 12, two-bedroom apartments. The 0.57-acre project site is located at 10684 & 10690 Ohio Street in the North Central Neighborhood and in the R-3, Multiple Family Residence zone.

SUMMARY

The proposed project is a request to change the General Plan Land Use designation from Medium Density, 5-10 dwelling units/per acre (du/ac) to Very High Density (11-20 du/ac) in order to accommodate a 12-unit apartment project at the south end of Ohio Street next to the San Timoteo Creek Channel (see Attachment A). The project includes a Variance request to encroach into the front yard setback for a structure and parking space. The Precise Plan of Design is for the site layout, design and architecture, and a demolition request for two existing structures 10684 and 10690 Ohio Street.

The project was continued from the August 3, 2005 Planning Commission Agenda pending the review and outcome of the Historic Commission's review which took place on September 6, 2005.

RECOMMENDATION

The recommendation is that the Planning Commission denies GPA No. 04-07, PPD No. 04-15, VAR No. 05-02, and Development Agreement based on the findings in this Staff Report.

PERTINENT DATA

Owner Applicant: Mr. Ahd Haddad

General Plan: Medium Density (5-10 dwelling units per acre)

Zoning:	Multiple Family Residence (R-3)
Site:	The 25,000 square foot (0.57 acre) project site is at the end of Ohio Street next to the San Timoteo Creek Channel
Topography:	Mostly flat area
Vegetation:	Existing landscaping and mature trees
Special Features:	Two existing residences, a garage, and older accessory structure

BACKGROUND AND EXISTING SETTING

Background

The project site is located in the North Central Neighborhood of the City, which dates back to the 1920's and 1930's. The neighborhood is known for its older, smaller homes and infill development that has taken place over the years. Information from the San Bernardino County Museum indicates no previously inventoried historical resources are known to exist in or adjacent to the project area. However, historic archaeological resources are reported to exist within or adjacent to project area. Photos of the subject site with the structures are provided (Attachment B).

Existing Setting

The subject property contains approximately 0.57 acres of land and is located at the south end of Ohio Street, off of Redlands Boulevard. The terminus of Ohio Street is the location of the pedestrian bridge over the San Timoteo Creek Channel. Surrounding land uses include single- and multi-family uses in the immediate vicinity. The project includes the request to demolish 10684 and 10690 Ohio Street. The two properties are not profiled in the 1988 Windshield Survey and Preliminary Architectural/Historical Inventory prepared by Roger Hatheway.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) STATUS

On July 14, 2005, staff prepared the Initial Study pursuant to the CEQA Guidelines and issued a Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (Attachment C). The mandatory 20-day public review began on July 14, 2005 and ended on August 2, 2005. No comments on the environmental document were received.

ANALYSIS

General Plan/Zoning

The current General Plan designation for the site is Medium Density Residential, which allows 5-10 dwelling units per acre. The current zoning is R-3, Multiple Family

Residence, which allows 5-10 dwelling units per acre. At this density, the site would yield a maximum of five dwelling units on 0.57 acres. Additionally, as part of the General Plan update, the density will be decreased to 5.1- 9 dwelling units per acre. The request to allow 12 units on half an acre of land amounts to "Spot Zoning," which the City cannot support and is not allowed under State law

In order to comply with the proposed density, the project is limited to five dwelling units plus a twenty-five percent density bonus to provide affordable housing units. This would limit the project to a total of six units, which is 50 percent less than the proposed project size.

Project Description

The project proposes twelve, two bedroom apartment units in a Mediterranean style building (Attachment D). Units will be both single and two-story. Two one-story units face Ohio Street. The other ten units are on the second floor above the first level parking structure. The proposed units are as follows:

Plan	# of Units	Story	SQ FT	Bed	Bath	Parking Spaces	Special Feature
A	4	1	1,000	2	2.0	2.5	
B	6	2	1,400	2	2.5	2.5	Family room
C	1	1	1,300	2	2.0	2.5	
D	1	1	1,300	2	2.5	2.5	Den

Unit A is the one-story unit plotted at the front of the property facing the street. The master bedroom is 220 square feet. Unit B is the two-story model with a family room next to the kitchen and the two bedrooms upstairs. Unit C is a one-story unit tucked into a corner of the building. The master bedroom is 216 square feet in size. Unit D is a one-story unit at the back of the building. With the two-story apartments on the second floor above the parking structure, the building consists of three levels.

The apartment building is proposed at 29.5 feet in height. The 30 parking spaces are plotted at ground level behind the two street facing apartments on the first floor. The enclosed parking area is open to the sides and rear. The B, C, and D units all access from the landscaped courtyard on the second floor, which is above the parking structure. A staircase from the garage to the courtyard is provided on the backside of the building in addition to the main entry staircase at the front, which provides access from Ohio Street.

Roofing material will incorporate concrete roof tile. Stamped concrete is proposed for the hardscape. The parking area will be enclosed on three sides with wrought iron fencing. The exterior color is earth tone beige with blue exterior trim.

The building is plotted along the front and side property lines. In addition to a play area and a small lattice structure, the second level courtyard opens to the rear property where a ground level swimming pool is proposed. The north and south elevations of the building are designed an additional five feet back at the second and third level

approximately 10 and 15 feet, which comply with Loma Linda Municipal Code (LLMC) §17.38.080.

Variance

Variance relief is requested from LLMC §17.38.060, which states that the front yard setback for the R3 zone must meet a minimum of twenty feet. The code also states that all off-street parking shall be provided outside of the front-yard setback area. The site plans shows a delivery parking space in the front setback adjacent to the driveway leading to the garage. The lattice patio structure in the garden area at the front corner of the property is considered a structure and is subject to the twenty foot front yard building setback (See page 2 of Attachment D).

Homeowner's Association

Because this is a rental occupied project, no Homeowners Association is required. However, the project will be required to provide a policy handbook for future tenants subject to review and approval by the Community Development Department.

Development Agreement

The proposed project is located in the Redevelopment Agency Project Area and as such, affordable housing is required. The developer has the option to provide fifteen percent of the units as affordable housing or to pay an in-lieu fee to assist in the production of future affordable housing units within the City (see Attachment E).

Historic Commission Review

The project was first heard by the Historic Commission on August 15, 2005 but was continued to provide time for legal notice to the residents of the two structures proposed for demolition. As a result, staff re-noticed to include the affected properties and some additional properties on Court Street, Ohio Street, Seamount Drive, and Lind Avenue.

The Historic Commission voted to recommend approval of the Certificate of Appropriateness to the City Council for the demolition of the two structures based on the following findings:

- 1. With regards to a designated resource, the proposed work will neither adversely affect the significant architectural features of the designated resource nor adversely affect the character of the historical, architectural, or aesthetic interest of value of the designated resource and its site.*

The two residential structures proposed for demolition are not architecturally or culturally significant historical resources. The surrounding neighborhood has been disturbed by development that has occurred since before the 1940's and is not designated as a historic district.

2. *With regard to any property located within a historic district, the proposed work conforms to the prescriptive standards and design guidelines for the district, adopted by the Commission, and does not adversely affect the character of the district.*

The two residences that are proposed for demolition and the subject site are not located with a historical district. The project is not subject to prescriptive or design standards.

3. *In the case of construction of a new improvement, addition, building, or structure upon a designated cultural resource site, the use and exterior of such improvements will not adversely affect and will be compatible with the use and exterior of existing designated cultural resources, improvements, buildings, natural features, and structures on the site; and,*

As previously stated, the subject property is not a designated historical or cultural resource site. Future development of the site, after demolition of the two residences is completed, shall comply with the City's development standards for the R-3 zone and shall be compatible with the surrounding neighborhood.

4. *The strict application of standards does not create an economic hardship based on testimony and evidence supplied by the applicant whereby it is judged by the Historical Commission and City Council that strict application of the guidelines would deprive the owner of the property of all reasonable use of or economic return on, the property.*

The applicant has not indicated that the strict application of the standards outlined in LLMC Chapter 17.80 would create an economic hardship or deprive him of all reasonable use of or economic return on the property.

The Historical Commission did express concern about conservation of the City's older housing stock and felt that this neighborhood is a prime candidate for designation as a Neighborhood Conservation Zone. The Commission acknowledged that the neighborhood is an unlikely candidate for designation as a potential historical district; however, the neighborhood does include a majority of older homes and could be nominated under the Historic Preservation Ordinance as a Neighborhood Conservation Zone. Concern was expressed about future residential development that could change the character and dynamics of the neighborhood. For this reason, the Historic Commission recommended to the Planning Commission and the City Council that any development undertaken in the Court Street, Lind Avenue, and Ohio Street neighborhood comply with the General Plan.

The Historical Commission was also concerned about the plight of the tenants who currently occupy the existing structures, their eventual relocation, the design of the proposed apartment complex, and the higher density proposed by the project. The Historical Commission recognized that neither the City nor the Commission has the authority to intervene in the situation between the current tenants of the site and property owner - it is a civil issue.

Loma Linda Connected Communities Program (LLCCP)

A Condition of Approval includes the requirement that the proposed project be pre-wired for coaxial, cable, and fiber optic installation in each unit per the LLCCP policy. The LLCCP ensures that new residences are equipped with links to meet the latest communications/technological advances. Units that are pre-wired in this manner are commonly referred to as "smart homes". The added technology has many advantages including increased marketability of the units. The applicant has been advised of this requirement.

FINDINGS

General Plan Text and Map Amendment Findings

An amendment to the General Plan may be adopted only if all of the following findings are made:

- 1. The proposed amendment is internally consistent with the General Plan;*

The proposed 12 unit apartment complex on 0.57 acres of land is not consistent with current General Plan Land Use designation of Medium Density Residential, which allows 5-10 dwelling units per acre. The project as proposed will not meet the future General Plan Land Use designation of Medium Density, 5.1-9 dwelling units. Staff's concern about the proposed density has been conveyed to the applicant and his representative throughout the review process.

- 2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;*

The proposed amendment and associated development project would be detrimental to the public in that the proposed residential community would exceed the allowable density for the existing single- and multi-family residential communities to the east, west and north of the project site, and would change the character and dynamics of the neighborhood. With an average household size of 2.85 people, the 12-unit project will bring an additional 34 residents to the neighborhood. Compliance with allowable density would reduce the number of new residents to 17.

- 3. The proposed amendment would maintain the appropriate balance of land uses within the City; and,*

The project would, to some degree, upset the balance of land uses in the City and adjacent properties would be adversely affected by the proposed amendment. The General Plan designation is predicated on a desirable density of dwelling units and exceeding the allowable density would result in more impacts to City services.

4. *In the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.*

The project site is physically suitable for multi-family residential development within the allowable density range. The adjacent properties in the area are a combination of single-family and multi-family residential uses. All public utilities are available to the site and can be provided for future site occupants. However, the proposed residential use is not compatible with the existing neighborhood in terms of density or architectural design. The site is physically constrained on the south property line adjacent to the San Timoteo Creek Channel.

Variance Findings

All of the following findings must be addressed when considering a Variance in accordance with Loma Linda Municipal Code Section 17.30.060.

1. *That there are exceptional and extraordinary circumstances of conditions applicable to the property involved.*

There is nothing physically unique about the location, size or shape of the lot to hinder compliance with the LLMC requirements. The property is constrained by the San Timoteo Creek Channel on the south side of the property but not the east side where the encroachment into the front yard setback is proposed. The site plan can be redesigned to accommodate a lattice structure and parking spaces outside of the front setback.

2. *That such variance is necessary for the preservation and enjoyment of the substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.*

The subject property and structures on site predate the incorporation of the City. There are no current encroachment issues with the existing structures. All properties within the same vicinity are subject to the same requirements as it relates to meeting the required setbacks for new additions or development.

3. *That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which property is located.*

If approved, this variance request will create a precedent for parking vehicles in the front yard setback. The parking space in the front yard would not provide adequate turning radius and would potentially cause conflicts between vehicles entering and exiting the site.

4. *The granting of such variances will be consistent with the general plan for the City.*

The multiple-family residential use at the proposed higher density is not consistent with the existing General Plan; however, the General Plan does not address variance issues.

Precise Plan of Design Findings

According to LLMC Section 17.30.290, Precise Plan of Design, Application Procedure, PPD applications shall be processed using the procedure for a variance (as outlined in LLMC Section 17.30.030 through 17.30.060) but excluding the grounds (or findings). As such, no specific findings are required. However, LLMC Section 17.30.280, states the following:

“If a PPD would substantially depreciate property values in the vicinity or would unreasonably interfere with the use or enjoyment of property in the vicinity by the occupants thereof for lawful purposes or would adversely affect the public peace, health, safety or general welfare to a degree greater than that generally permitted by this title, such plan shall be rejected or shall be so modified or conditioned before adoption as to remove the said objections.”

The proposed use is not consistent with the existing General Plan land use designation or in compliance with the R-3, Multiple Family Residence zone, which permits a range of density from 5-10 dwelling units per acre (pursuant to LLMC Chapter 17.38). The R-3 zone is intended to provide multi-family residential development and compliance with the development standards found in Chapter 17.38.

COMMENTS

No written or oral comments on the project or environmental document have been received to date.

CONCLUSION

Based on the evidence presented, Community Development Department staff cannot make the necessary findings as mandated by State Law to recommend approval of this variance and general plan amendment request. No exceptional or extraordinary circumstances exist on the subject property to warrant an encroachment into the twenty-foot front yard setback for a lattice shade structure and parking space. In addition “Spot Zoning” is not permitted under State law. Therefore, staff recommends denial of the project, which includes a GPA, PPD, VAR and Development Agreement.

Report prepared by:
Raul Colunga,
Assistant Planner

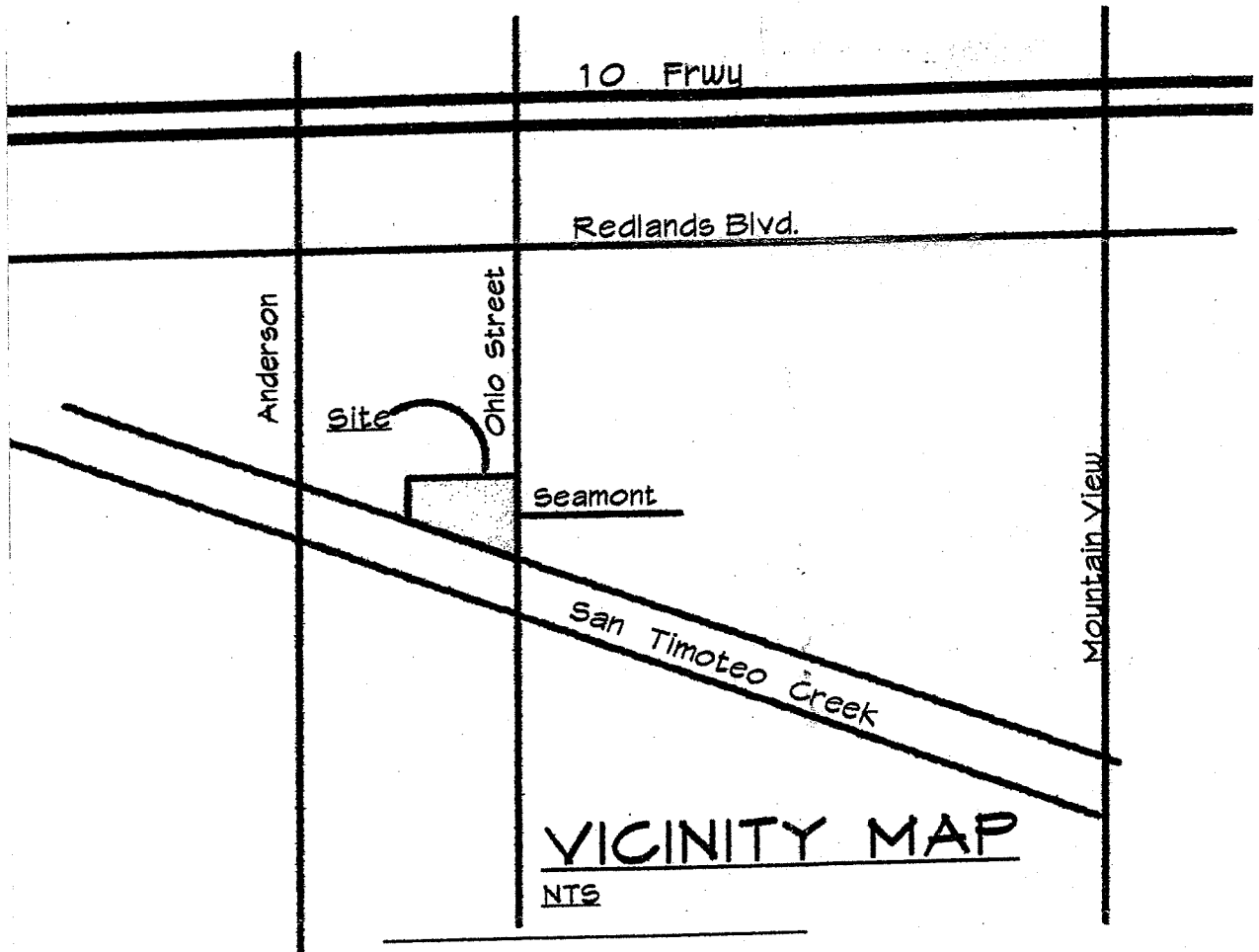
ATTACHMENTS

- A. Site Location Map
- B. Photos of Project Site
- C. Mitigated Negative Declaration (NOI/Initial Study)
- D. Project Plans
- E. Development Agreement

I:\Project Files\PPD's\PPD 04-15 Haddad\10-05 pc Staff Report.doc

Attachment A

Site Location Map

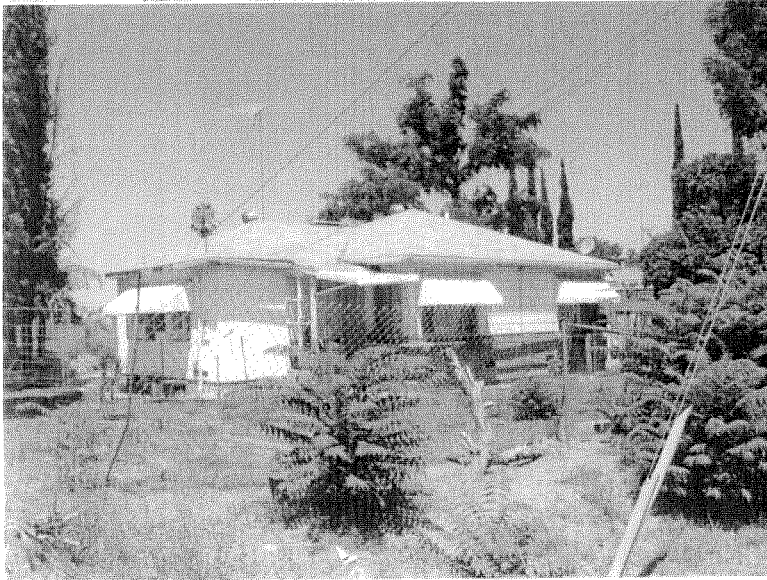
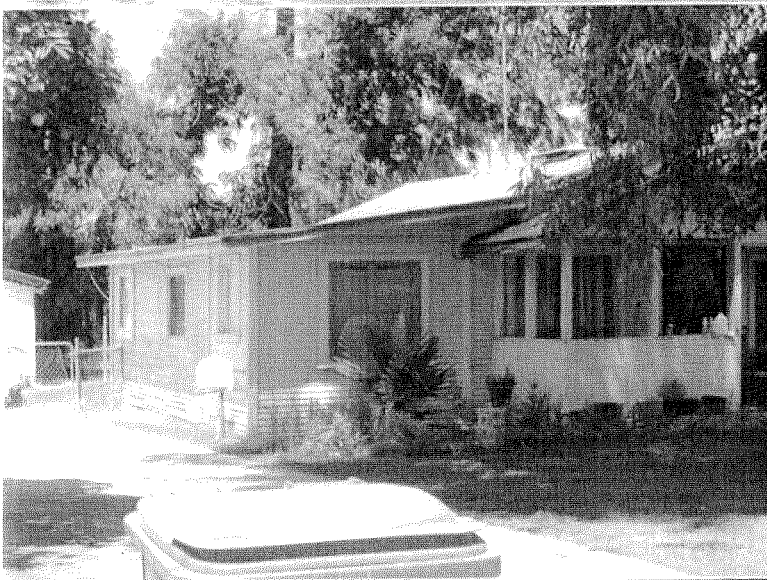
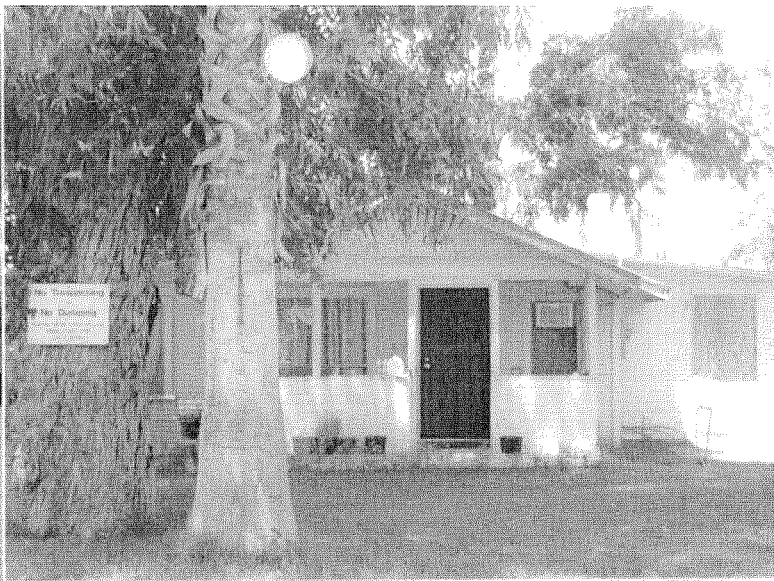


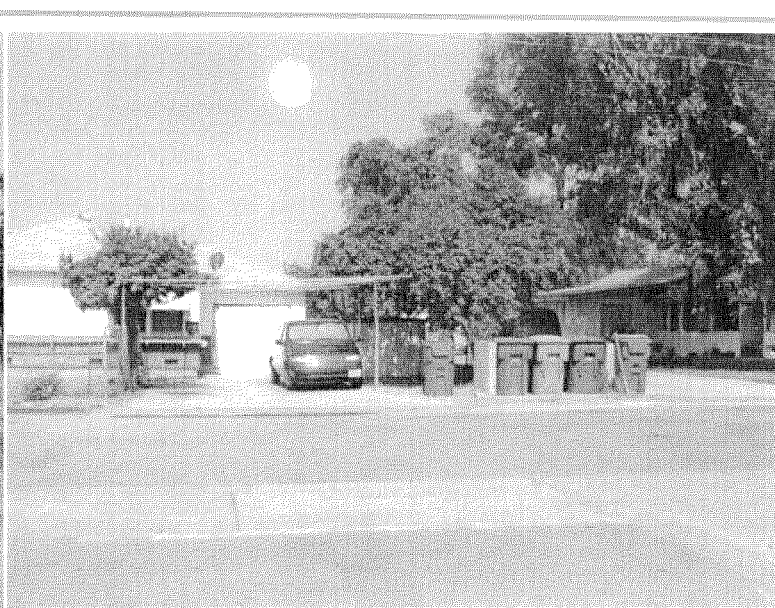
VICINITY MAP

NTS

Attachment B

Photos of Project Site





Attachment C

NOI/Initial Study

JUL 13 2005

COUNTY OF
SAN BERNARDINO

NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the City of Loma Linda has completed an Initial Study of a project described as: Creek View Apartments- The project consists of demolishing two existing homes and ancillary structures at 10684 & 10690 Ohio Street in order to construct twelve, two bedroom apartment units on a .568 acre site next to the San Timoteo Creek Flood Control Channel in accordance with the City's Guidelines implementing the California Environmental Quality Act. This Initial Study was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of such Initial Study, the City's Staff has concluded that the project will not have a significant effect on the environment, and has therefore prepared a Draft Negative Declaration/Mitigated Negative Declaration. The Initial Study reflects the independent judgement of the Town. The project site **is not** on a list compiled pursuant to Government Code section 65962.5. Copies of the Initial Study and Draft Negative Declaration are on file at City Hall, 25541 Barton Road, and are available for public review. Comments will be received until August 03, 2005. Any person wishing to comment on this matter must submit such comments, in writing, to the Town prior to this date. Comments of all Responsible Agencies are also requested.

At its meeting on August 03, 2005 at 7:00 p.m., the Planning Commission will consider the project and Draft Negative Declaration. If the Planning Commission finds that the project will not have a significant effect on the environment, it may adopt the Negative Declaration. This means that the Planning Commission may proceed to consider the project without the preparation of an Environmental Impact Report.

Date Received
for Filing 7/13/05

(Clerk Stamp Here)


H.P. Kang
Senior Planner

DATE FILED & POSTED

CITY OF LOMA LINDA

Environmental Check List Form

1. Project Title: Creek View Apartments- General Plan Amendment (GPA) No. 04-07, Precise Plan of Design (PPD) No. 04-15, Variance (VAR) No. 05-02 & Development Agreement
2. Lead Agency Name and Address: City of Loma Linda, 25541 Barton Road, Loma Linda, CA 92354
3. Contact Person and Phone Number: Raul Colunga, Assistant Planner (909) 799-2834
4. Project Location: 10684 & 10690 Ohio Street, Loma Linda, CA 92354
5. Project Sponsor's Name and Address: Mr. Ahd Haddad, 29848 Live Oak Canyon Road, Redlands, CA 92373
6. General Plan Designation: Medium Density Residential
7. Zoning Designation: R3, Multiple Family Residence
8. Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheet(s) if necessary.)
The applicant is requesting an approval of a twelve (12) unit apartment complex on approximately .52 acres of land designated Multiple-Family Residential (R3). A variance is requested to encroach into the front yard setback for the guest parking space and lattice shade structure.
9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings.)
The proposed site is surrounded by multi-family apartments and single-family residential homes at this time. The North Central Neighborhood of Loma Linda is a mix of apartments and single-family homes that predates incorporation of the City.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):
None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

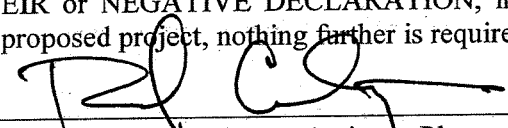
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |


DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Prepared By: Raul Colunga, Assistant Planner

7/13/05
Date


Reviewed By: H.P. Kang
Senior Planner

7/13/05
Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analyses Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

I.AESTHETICS. Would the project:

a) Have a substantial adverse effect on a scenic vista?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. This is a request to construct a twelve (12) unit apartment complex on an approximately .56-acre site in the Multiple-Family Residential (R3) zoning district. The project site will be built with one and two story units at a maximum height of thirty-five (35) feet, which complies with the maximum allowable height of the R3 Zoning Standards. The proposed apartment units will be constructed on an existing 25,000 square foot lot, which is consistent with the City General Plan. Two older homes and garages are proposed for demolition. The proposed multi-family residential development is in conformance with Zoning Code requirements for appropriate setbacks. However, a Variance is requested to encroach into the front yard setback for parking and lattice structure. The proposed multi-family residential development will not block public views and is in scale to other residential developments in the area. Therefore, there is no substantial adverse impact on the scenic vista. Any new construction will meet or exceed the development standards that include buffering, building setbacks and landscaping to minimize potential impacts.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The site is not located along, nor within the viewshed of, a Scenic Route listed in the County General Plan, City General Plan or designated by the State of California. The surrounding area is developed with single-family and multi-family housing. No unique rock outcroppings or historic buildings occur on the site, and the proposed residential development will be compatible with surrounding land uses. The existing structures and mature trees on site will be torn down to make way for the project.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No In
--------------------------------------	--	------------------------------------	-------

c)Substantially degrade the existing visual character or quality of the site and its surroundings?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. This is a request to construct a 12 unit apartment complex on an approximately .56-acre site in the Multiple-Family Residence (R3) zoning district. The project site will be built with one and two story units at a maximum height of thirty-five (35) feet, which complies with the permitted height for the R3 Zone. The proposed project will replace two existing single-family homes and garages. The proposed multi-family residential development will not block public views and is in scale to other residential developments in the neighboring area; therefore, not impacting the visual character of the site or surroundings.

d)Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. This is a request to demolish two single family homes and garages in order to construct a 12 unit apartment complex on an approximately .56 acre site in the Multiple-Family Residence (R3) zoning district. All new development will meet or exceed the City's Development Code and Standard Uniform Building Code requirements for construction of lighting facilities, which requires that they be located within project boundaries. The resultant incremental increase in new light or glare, which may occur from streetlights and on site perimeter lighting, does not constitute a significant impact.

II.AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a)Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. There are currently no agricultural operations being conducted on the project site. Therefore, the project will not have an impact on soils or farmlands.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--------------------------------------	--	------------------------------------	--------

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. There are currently no agricultural operations being conducted on the project site. Therefore, the project will not have an impact on any existing zoning for agricultural use or on the Williamson Act contract.

c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. There are currently no agricultural operations being conducted on the project site. Therefore, the project will not have an impact on the existing environment, which, due to their location or nature, could result in conversion of farmland to non-agricultural use.

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The construction of a 12 apartment complex on an approximately .56-acre site, in the Multiple-Family Residential (R3) zoning district, will not conflict with or obstruct implementation of the air quality plan requirements imposed by the South Coast Air Quality Management District (SCAQMD). The project size is below the threshold of SCAQMD and, therefore, will not impact air quality. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No In
--------------------------------------	--	------------------------------------	-------

b)Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The construction of a 12 unit apartment complex on an approximately .56-acre site, in the Multiple-Family Residence (R3) zoning district, will not conflict with or obstruct implementation of the air quality plan requirements imposed by the South Coast Air Quality Management District (SCAQMD). The project size is below the threshold of SCAQMD and, therefore, will not impact air quality. Development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

c)Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The construction of twelve (12) apartments within an approximately .56 net acre site in the Multiple-Family Residential (R3) zone, will not conflict with or obstruct implementation of the air quality plan requirements imposed by the South Coast Air Quality Management District (SCAQMD). Daily emission from the passenger vehicles for the individual future homeowners will be governed by the Department of Motor Vehicles and shall comply with the emission standards of the State of California. The project size is below the threshold of SCAQMD and, therefore, will not impact air quality. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

d)Expose sensitive receptors to substantial pollutant concentrations?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The location of the nearest school to this project site is Loma Linda Academy (at approximately ½ mile). Due to the size of the project not exceeding the thresholds established by SCAQMD, a less than significant impact is anticipated. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
e)Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

No impact is anticipated. A multi-family residential development will not produce any objectionable odors beyond the standard household odors from day to day urban living. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

IV. BIOLOGICAL RESOURCES. Would the project:

a)Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The project site has been developed since the 1930's, with two homes, a barn and garage proposed for demolition. The development in the neighborhood has caused disturbance of the site, which precludes the site from being considered suitable habitat for various species. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

b)Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. There are no known riparian habitats at this project site. The site is located next to the San Bernardino County Flood Control Channel and is not within any waterway. No perennial or ephemeral stream courses exist on site. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

Potentially
Significant
Impact

Less Than
Significant
With
Mitigation
Incorporated

Less Than
Significant
Impact

No Ir

c)Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

☐

☐

☐

☒

No impact is anticipated. The proposed project will not have any adverse effect because the area is not identified as protected wetlands. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

d)Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

☐

☐

☐

☒

No impact is anticipated. The proposed project will not have any adverse effect because the area is not identified as a protected path for the native residents or migratory fish or wildlife species. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

e)Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

☐

☐

☐

☒

No impact is anticipated. The proposed project will not conflict with any local policies or ordinances protecting biological resources. Mature tree specimens within the proposed project site are proposed for removal. However, these trees are not under the purview of a tree preservation policy or ordinance. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

f)Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

☐

☐

☐

☒

No impact is anticipated. This proposed project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional or state habitat conservation plan. Any future development shall meet and/or exceed all of the City's adopted development standards to minimize any potential impacts.

FORM "J"

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Im
--------------------------------------	--	------------------------------------	-------

V.CULTURAL RESOURCES. Would the project:

a)Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

☐ ☐ ☒ ☐

Less than significant impact is anticipated. The site is developed with two homes, a garage and a barn. The structures are in excess of 50 years of age and will require review and approval by the City Historic Commission for a Certificate of Appropriateness for demolition. Based on exterior elevations, the structures do not meet the current Building and Safety Code. Therefore, there will be no impact of historical resources as defined in § 15064.5.

b)Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

☐ ☐ ☐ ☒

No impact is anticipated. There is no evidence that there are any archaeological resources on the project site. The site has been developed for over 50 years. Therefore, there will be no impact of historical resources as defined in § 15064.5.

c)Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

☐ ☐ ☐ ☒

No impact is anticipated. There is no evidence of paleontological resources or unique geological resources on site or within the vicinity which may be considered archaeological resource. Therefore, there will be no impact to paleontological resources.

d)Disturb any human remains, including those interred outside of formal cemeteries?

☐ ☐ ☐ ☒

No impact is anticipated. There is no known evidence of this site being utilized as a formal cemetery or that any human remains have been found in the past to have any cultural impact.

VI.GEOLOGY AND SOILS – Would the project:

a)Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
--------------------------------------	--	------------------------------------	-----------

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The General Plan indicates that the project site is not located within a special studies (Alquist-Priolo) zone and, therefore, does not require a geologic study to mitigate this naturally occurring hazard throughout Southern California. The new multi-family residential use would subject the residents to geologic hazards such as earthquakes that occur from time to time in the Southern California area. The closest mapped fault is the San Jacinto Fault that lies over three (3) miles southwest of the project site. The Inland Empire is a seismically active region; however, safety provisions identified in the Uniform Building Code shall be required when development occurs which will reduce potential ground shaking hazards to a level below significance. The potential of unstable soil condition, landslide, lateral spreading, subsidence, liquefaction or collapse is present because of the geographical make-up of the area and the frequency of earthquake occurrences in Southern California.

ii) Strong seismic ground shaking?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. Loma Linda, like most cities in California, is located in a seismically active region. It can be expected, therefore, that the project areas could experience strong seismic ground shaking at some point in time. Any future construction on the sites shall be seismically designed to mitigate anticipated ground shaking.

iii) Seismic-related ground failure, including liquefaction?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. Loma Linda is located in a seismically active region. It can be expected, therefore, that the project areas could experience strong seismic ground shaking at some point in time. Any future construction on the site shall be seismically designed to mitigate anticipated ground shaking.

iv) Landslides?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The project site is relatively flat. Any future development will be required to meet and/or exceed the development standards adopted by the City.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--------------------------------------	--	------------------------------------	--------

b) Result in substantial soil erosion or the loss of topsoil?

☐ ☐ ☒ ☐

Less than significant impact is anticipated. The project site is relatively flat. The project will meet and/or exceed the development standards set by the City of Loma Linda. Clearing, grading and trenching during construction may result in the incremental loss of topsoil on the site and minimally contribute to soil erosion from wind and water. These small losses are not considered to have the potential to be significant due to the small size of the site; however, measures required by SCAQMD Rule 403.2 to reduce fugitive dust (as referenced in Section III "Air Quality") will also further reduce potential impacts due to wind erosion. Therefore, there is a less than significant impact of soil erosion occurring at this project site with implementation of proper construction methods and development standards as defined in the Loma Linda Development Code and the latest adopted building regulations.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

☐ ☒ ☐ ☐

Less than significant impact with mitigation incorporated is anticipated. The project site is relatively flat. The potential of unstable soil condition, landslide, lateral spreading, subsidence, liquefaction or collapse is present because of the geographical make-up of the area and the frequency of earthquake occurrences in Southern California. However, any future project will meet and/or exceed the development standards set by the City of Loma Linda. Therefore, there is a less than significant impact of soil erosion occurring at this project site with proper construction methods as outlined in the Geotechnical Study and development standards as defined in the City of Loma Linda Development Code and the latest adopted building regulations.

Mitigation Measure: The proposed project shall implement the recommendations found in the Feasibility Study-Report of Soils and Foundation Evaluation prepared by Soils Southwest, Incorporated dated August 12, 2004.

Source: Soils and Foundation Evaluations, Soils Southwest, Inc.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
--------------------------------------	--	------------------------------------	-----------

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. Generally, the Southern California region is prone to earthquakes and ground vibrations. The General Plan indicates that the project site is not located near a special studies zone or an earthquake fault zone. Any project within the area of Southern California shall meet the latest adopted building regulations to minimize the potential impact caused by an earthquake. The proposed project will have less than significant impact to the earthquakes that naturally occur throughout Southern California.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Sewer service is available to the property from the City of Loma Linda via City of San Bernardino sewer system. New sewer service will be provided for the apartment units that receive approval. Therefore, no impact to the soils is anticipated.

VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project involves the construction of twelve, two bedroom apartments on a half-acre site. There are no known hazardous materials on the project site. Therefore, the project will not create hazard to public or environment.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The proposed project will not create hazards to the public or environment and there are no known hazardous materials on the project site.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--	--------------------------------------	--	------------------------------------	--------

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project involves the construction of twelve, two bedroom apartments. The closest school is the Loma Linda Academy, which is located approximately half miles west of this project site. The proposed project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substance or waste within one-quarter mile of an existing or proposed school.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, this project will not create a significant hazard to the public or the environment.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project is not located within two miles of a public airport or public use airport (the nearest airport is the San Bernardino International Airport located approximately four {4} miles to the north).

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project is not located within two miles of a public airport or public use airport (the nearest airport is the San Bernardino International Airport located approximately four {4} miles to the north).

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project involves the construction of twelve, two bedroom apartments. This project will not impair or interfere with an adopted emergency response plan or emergency evacuation plan.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Ir
--------------------------------------	--	------------------------------------	-------

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

☐ ☐ ☒ ☐

Less than significant impact is anticipated with already adopted City emergency evacuation plans and City development standards. The site is not located within a designated Hazardous Fire Overlay Zone and has no history of wildland conflagration.

VIII. HYDROLOGY AND WATER QUALITY. Would the project:

a) Violate any water quality standards or waste discharge requirements?

☐ ☐ ☐ ☒

No impact is anticipated. This involves the construction of a twelve-unit multi-family apartment project. This residential project will meet and/or exceed the development standards set by the City of Loma Linda and will be required to connect to the City sewer system. Therefore, this project will not violate any water quality standards.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

☐ ☐ ☐ ☒

No impact is anticipated. The project involves the construction of a twelve-unit multi family apartment complex. The City of Loma Linda will provide water for the proposed project. Therefore, the project will not deplete groundwater supplies or interfere substantially with groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

☐ ☐ ☐ ☒

No impact is anticipated. The project will not substantially alter the existing drainage pattern of the site or area. The development will have street, curb and gutter to transport natural drainage, which comply with City standards. The San Bernardino County Flood Control is immediately south of the project site.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--------------------------------------	--	------------------------------------	--------

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?

☐ ☐ ☐ ☒

No impact is anticipated. The project will not substantially alter the existing drainage pattern of the site or area. The development will have street, curb and gutter to transport natural drainage, which comply with City standards. The project site is adjacent to the San Bernardino Flood Control Channel.

e) Create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

☐ ☐ ☐ ☒

No impact is anticipated. The project will not substantially create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. The development will be required to comply with National Pollution Discharge Elimination System (NPDES) and all established engineering standards of drainage impacts as determined by the Public Works Engineering Division.

f) Otherwise substantially degrade water quality?

☐ ☐ ☐ ☒

No impact is anticipated. The proposed residential development will not impact surface water quality. The proposed development shall meet all of the City of Loma Linda's latest adopted development standards addressing water quality.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Ir
--------------------------------------	--	------------------------------------	-------

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The General Plan Housing Element (1986) and FEMA's Flood Insurance Rate Map (1996) identify the project site as lying within a 100-year floodplain. The San Bernardino County Flood Control District has improved the Sam Timoteo Creek to a concrete lined trapezoidal channel. As a result of ongoing flood control improvements, FEMA issued a letter on June 27, 2001, that revises the project area's floodplain rating to a Zone A99. The Zone A99 designation is an interim designation that is used for areas that are protected from the base flood due to a Federal flood-protection system that is under construction. A new floodplain map will be prepared.

Source: Flood Insurance Rate Map # 06071C8692

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The project site is located within the Flood Zone as indicated in the Loma Linda General Plan. The project does not have significant impact with regards to potential future flooding.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The San Bernardino County Flood Control channel is adjacent to the project site. It has been designed to carry storm water flows through its concrete lined channel to the Santa Ana River.

j) Inundation by seiche, tsunami, or mudflow?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Nearest area prone to seiche and tsunami is approximately 80 miles west from the project site along the coast.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--------------------------------------	--	------------------------------------	--------

IX. LAND USE AND PLANNING. Would the project:

- a) Physically divide an established community?

☐ ☐ ☐ ☒

No impact is anticipated. This project involves the construction of twelve, two bedroom apartments on a 0.5-acre site located within the Multiple-Family Residential (R3) zone. At the end of Ohio Street is the new pedestrian bridge providing connectivity between both neighborhoods separated by the Flood Control Channel. In addition, the project applicant proposes a community area garden and lattice gazebo at the front of the property next to the street. This project will not physically divide an established community.

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

☐ ☐ ☒ ☐

Less than significant impact is anticipated if the project size is reduced to meet the required density. The current Zoning Code allows 5.1 to 10 dwelling units per acre. The update to the General Plan will reduce density to 5.1 to 9 proposal for Medium Density Residential. The proposed project does not meet either criteria and the applicant has been informed of the density range. As submitted, the project exceeds the allowable density for an R3 Zone. Complying with the Zoning Code, the General Plan update and a twenty five percent density bonus for affordable housing units will yield a total of six apartment units. Therefore, the project shall meet the current and/or proposed General Plan Multi-Family Density range.

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

☐ ☐ ☐ ☒

No impact is anticipated. Multi-Family Residential development is a permitted use within the Multiple-Family Residential (R3) Zone. There is no applicable habitat conservation plan for this area. The construction of the proposed apartment will not conflict with any applicable habitat conservation plan or natural community conservation plan.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No In
--------------------------------------	--	------------------------------------	-------

X. MINERAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The project involves the demolition of the existing structures and the construction of apartments on approximately .56-acres of land area. There is no known mineral resource identified at this location.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The project involves the demolition of the existing structures and the construction of apartments on approximately .56-acres of land area. There is no known mineral resource identified at this location.

XI. NOISE. Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The project involves the demolition of the existing structures and the construction of apartments on approximately .56-acres of land. This proposed project would increase noise levels in the area, consistent with single and multi-family residential units. However, these levels would not exceed the standards established in the City of Loma Linda Noise Ordinance (Municipal Code Chapter 9.2). Some incremental increase in ambient noise levels will occur during construction of the apartment units. However, compliance with the City's construction hours of 7:00 a. m. to 7:00 p. m. will reduce the noise impacts during nighttime hours.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The project involves the construction of apartments on approximately .56 acres of land. The project will not expose persons to or generate excessive groundborne vibration or groundborne noise levels. Some incremental increase in ambient noise levels will occur during construction of the single-family homes. However, compliance with the City's construction hours of 7:00 a. m. to 7:00 p. m. will reduce the noise impacts during nighttime hours.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Im
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Less than significant impact is anticipated. The project involves the construction of apartments on approximately .56 acres of land. The project will not significantly increase permanent noise levels.				
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Less than significant impact is anticipated. The project involves the construction of multi-family apartments on an approximately .56 acres of land. The project may temporarily exceed ambient noise levels during construction. Construction hours of 7:00 a. m. to 6:00 p. m. will be enforced to reduce any temporary noise impacts during nighttime hours.				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
No impact is anticipated. This project is not located within two miles of a public airport or public use airport.				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
No impact is anticipated. This project is not located within two miles of a public airport or public use airport.				

XII. POPULATION AND HOUSING. Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other infrastructure)?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The project involves the construction of multi-family residential development on an approximately .56 acres of land. The General Plan identifies the area as a multiple-family residential zone. With twelve (12) apartment units and a household size of 2.85 people, the project will induce approximately 34 people to the area. The amount of population anticipated from this project meets the intent of the General Plan under this zone. Therefore, this project will not induce the population growth more than anticipated and identified in the General Plan.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. Currently, there are two existing homes on the project site, which are proposed for demolition. However, the proposal, with approval, will replace the two existing homes with a twelve (12) unit apartment complex.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. Currently, there are two existing homes on the project site. This project will displace two households. However, the proposal, with approval, will replace the two existing homes with a twelve (12) unit apartment complex.

XIII. PUBLIC SERVICES. Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
--------------------------------------	--	------------------------------------	--------

Fire protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Due to the limited size of the project and expected/anticipated community growth, the proposed project would not result in additional need for fire protection services beyond that anticipated within the general community. However, the project will pay its appropriate Fire fee per unit as adopted by Loma Linda City Council.

Police protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Due to the limited size of the project and expected/anticipated community growth, the proposed project would not result in additional need for police protection services beyond that anticipated within the general community. However, the project will pay its appropriate development impact fee per unit as adopted by Loma Linda City Council.

Schools?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Due to the limited size of the project and expected/anticipated community growth, the proposed project would not result in an additional need for schools. However, this proposed project would be subject to the payment of school impact fees to the Redlands Unified School District.

Parks?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. Due to the limited size of request and expected/anticipated community growth, the proposed project would not result in an additional need for parks. However, this proposed project would be subject to the payment of its fair share for park impact fees.

Other public facilities?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The project under consideration is an apartment complex and the maximum number of units allowed is six. The new apartment units, would be required to pay any and all appropriately applicable fees to provide the project's fair share of any identified public facilities needed.

Potentially
Significant
Impact

Less Than
Significant
With
Mitigation
Incorporated

Less Than
Significant
Impact

No In

XIV. RECREATION. Would the project:

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

☐

☐

☒

☐

Less than significant impact is anticipated. The project involves the construction of two bedroom apartment units on approximately .56 acres of land. Recreational amenities are provided on-site for future residents. The project will be given credit for the amount of space provided and is still subject to Park Impact Fees.

- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which have an adverse physical effect on the environment?

☐

☐

☐

☒

No impact is anticipated. The project involves the construction of six apartments on an approximately .56 acres of land. Park Impact Fees are required with credit given for recreational amenities provided on site.

XV. TRANSPORTATION/TRAFFIC. Would the project:

- a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

☐

☐

☒

☐

Less than significant impact is anticipated. The project involves the construction of twelve apartments on an approximately .56 acres of land in established built out neighborhood. The proposed construction will generate an additional 78 daily trips based upon 6.47 trips per dwelling unit per day. This project will pay a traffic impact fee as adopted by Loma Linda City Council per dwelling unit as its fair share to mitigate any traffic related impacts.

Source: Trip Generation Handbook, 5th Edition, Institute of Transportation Engineers (ITE).

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Im
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Less than significant impact is anticipated. The proposed construction of twelve apartment units will generate an additional 77 daily trips based upon 6.47 trips per dwelling unit per day and falls under the threshold of the County CMP. Therefore, a CMP compliant TIA is not required. This project will pay a traffic impact fee as adopted by Loma Linda City Council per dwelling unit as its fair share to mitigate any traffic related impacts.

Source: Previous page

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The proposed development includes the construction of twelve, two bedroom apartment units. This project will not change air traffic patterns.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project is located at the end of Ohio Street, next to San Bernardino County Flood Control channel. This project will have an entrance off of Ohio Street. Parking is provided on the ground level with the apartments in front and above on the second story.

e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project is located at the end of Ohio Street. The entrance will provide safe ingress/egress to the subdivision. Stair access will be provided to the upper apartment units.

f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. This project will have a minimum of 2.5 parking spaces for each two-bedroom unit built. Public Works Department will be doing street improvements on Ohio Street by September improving the Right-of-Way to 47 feet. The project complies with on site parking standards required in the Zoning Code.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
--------------------------------------	--	------------------------------------	-----------

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The proposed development includes the construction of twelve, two bedroom apartment units. The nearest bus stop is on Redlands Boulevard which offers service to San Bernardino and Redlands.

XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The project's wastewater will be carried via sewer lines from the City to the City of San Bernardino wastewater reclamation plant. The project site is already served with City Sewer. This project will meet the adopted wastewater discharge criteria and will not exceed wastewater treatment requirements of the Regional Water Quality Control Board.

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The project's wastewater will be carried via sewer lines from the City to the San Bernardino wastewater reclamation plant, which has the capacity to handle this proposed project. Enlarged sewer capacity to the site will be required to serve the extra units. However, this project does not require constructing a new wastewater treatment facility.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. No storm water shall be retained on adjacent property. A final grading/drainage plan is required, for review and approval by the City Engineer. Potential impacts will be mitigated through proper site grading.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Imp
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Less than significant impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The City of Loma Linda will supply the water for this project. Therefore, the project has sufficient water supply to the project.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The project's wastewater will be carried via sewer lines from the City to the San Bernardino wastewater reclamation plant. This project shall implement all City adopted requirements for the wastewater discharge through the Public Works Department. With the implementation of the City requirements, this project will not have a significant impact to the wastewater discharge.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------	-------------------------------------	--------------------------

Less than significant impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The project's solid waste will be carried to the San Timoteo County landfill. This project will have a minor need for landfill waste disposal and will have less than significant impact on the existing disposal facility's capacity to accommodate solid waste disposal needs.

g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

No impact is anticipated. The proposed development includes the construction of twelve, two bedroom units. The project solid waste will be carried to the San Bernardino County San Timoteo landfill site. This project will have a minor need for landfill waste disposal and will have less than significant impact on the existing disposal facility's capacity to accommodate solid waste disposal needs. The project will comply with all regulations related to solid waste.

Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Ir
--------------------------------------	--	------------------------------------	-------

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUMMARY DISCUSSION

The City of Loma Linda has concluded based upon the analysis herein that the proposed multi-family residential development twelve, two bedroom apartment units on a .568 acre site will have a "less than significant impact".

Mitigation Measures

1. **Geology and Soils**-The proposed project shall implement the recommendations found in the Feasibility Study-Report of Soils and Foundation Evaluation prepared by Soils Southwest, Incorporated dated August 12, 2004.

References

Feasibility Study-Report of Soils and Foundation Evaluation, Soils Southwest., August 12, 2004

MITIGATION MONITORING AND REPORTING PROGRAM

This mitigation monitoring and reporting and compliance program has been prepared for use in implementing the conditions of approval for:

Precise Plan of Design No. 04-15

The program has been prepared in compliance with State law and the initial environmental study prepared for the project by the City of Loma Linda.

The California Environmental Quality Act (CEQA) requires adoption of a reporting or monitoring program for those measures placed on a project to mitigate or avoid adverse effects on the environment. The law states that the reporting or monitoring program shall be designed to ensure compliance during project implementation.

The monitoring program contains the following elements:

- 1) The mitigation measures are recorded with the action and procedure necessary to ensure compliance. In some instances, one action may be used to verify implementation of several mitigation measures.
- 2) A procedure for compliance and verification has been outlined for each action necessary. This procedure designates who will take action, what action will be taken and when, and to whom and when compliance will be reported.
- 3) The program contains a separate Mitigation Reporting and Compliance Record for each action. On each of these record sheets, the pertinent actions and dates will be logged, and copies of permits, correspondence or other relevant data will be attached. Copies of the records will be submitted to the Planning Department.
- 4) The program has been designed to be flexible. As monitoring progresses, changes to compliance procedures may be necessary based upon recommendation by those responsible for the program. As changes are made, new monitoring compliance procedures and records will be developed and incorporated into the program.

MITIGATION MEASURE:

1. The proposed project shall implement the recommendations found in the Feasibility Study- Report of Soils and Foundation Evaluation prepared by Soils Southwest, Incorporated dated August 12, 2004.

IMPLEMENTATION AND VERIFICATION:

- A. For the structural pads planned near the existing grade surface, it is recommended that the upper loose fill soils, or upper dry, loose and disturbed surficial soils should be subexcavated to about 5 feet, or to the minimum depth equal to the planned footing embedment +24 inch, whichever is greater, followed by scarification, moisturization and recompaction prior to the subexcavated local soil replacement compacted to minimum 90%.
- B. Within structural areas requiring new fill soils placement, prior to such placement, site preparations should include removal of the upper loose soils to about 4.5 to 5 feet, followed by scarification, moisturization and recompaction to minimum 90% prior to new fill soils placement similarly compacted to 90% or more. Fills soils placed should be verified by soils engineer prior to their importation to site. For uniform soil bearing, an overall minimum 24-inch thick compacted fill mat blanket should be maintained below load bearing footings.
- C. Within the pad areas requiring cuts to present grade surface, it is recommended that following such cuts, the surface exposed should be further subexcavated and recompacted to sufficient depth so as to maintain a minimum 24-inch thick compacted fill mat blanket below the planned footing bottoms.

COMPLIANCE RECORD:

WHEN REQUIRED:

- A. The erosion control plan shall be submitted at the pre-construction meeting. Construction may not commence until the plan is approved by the Building Official.
- B. Implementation shall be on-going throughout construction.

Implementation compliance	Date	Signature of City Official
Submittal of Erosion Control Plan		Received by:
Approval of Erosion Control Plan		Approved by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:
Erosion Control Implementation Inspection		Inspected by:

Corrections Required (attach copy of correction notice)	Date

MITIGATION MEASURE:

2. To minimize construction emissions, the following measures shall be implemented:
- Attempt to phase and schedule activities to avoid high-ozone days and first-stage smog alerts.
 - Discontinue operation during second-stage smog alerts.
 - All haul trucks shall be covered prior to leaving the site to prevent dust from impacting the surrounding areas.
 - Moisten soil each day prior to commencing grading to depth of soil cut.
 - Water exposed surfaces at least twice a day under calm conditions and as often as needed on windy days or during very dry weather in order to maintain a surface crust and minimize the release of visible emissions from the construction site.
 - Treat any area that will be exposed for extended periods with a soil conditioner to stabilize soil or temporarily plant with vegetation.
 - Wash mud-covered tires and under carriages of trucks leaving construction sites.
 - Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud, which would otherwise be carried off by trucks departing project sites.
 - Securely cover all loads of fill coming to the site with a tight fitting tarp.
 - Cease grading during periods when winds exceed 25 miles per hour.
 - Provide for permanent sealing of all graded areas, as applicable, at the earliest practicable time after soil disturbance.
 - Maintain construction equipment in peak operating condition so as to reduce operating emissions.
 - Use low-sulfur diesel fuel in all equipment.
 - Use electric equipment whenever practicable.
 - Shut off engines when not in use.

IMPLEMENTATION AND VERIFICATION:

- A. The construction contractor shall implement measures listed above throughout construction and request inspections for compliance with them as well as the recommendations found in the Feasibility Study –Report of Soils and Foundation Evaluation dated August 12, 2004..

COMPLIANCE RECORD:

WHEN REQUIRED:

- A. Implementation shall be on-going throughout construction.

Mitigation Measure	Date(s) of implementation	Project Manager Signature	City Inspector Signature
a. Attempt to phase and schedule activities to avoid high-ozone days and first-stage smog alerts.			
b. Discontinue operation during second-stage smog alerts.			
c. All haul trucks shall be covered prior to leaving the site to prevent dust from impacting the surrounding areas.			
d. Moisten soil each day prior to commencing grading to depth			

FORM "J"

of soil cut.			
e. Water exposed surfaces at least twice a day under calm conditions and as often as needed on windy days or during very dry weather in order to maintain a surface crust and minimize the release of visible emissions from the construction site.			
f. Treat any area that will be exposed for extended periods with a soil conditioner to stabilize soil or temporarily plant with vegetation.			
g. Wash mud-covered tires and under carriages of trucks leaving construction sites.			
h. Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud, which would otherwise be carried off by trucks departing project sites.			
i. Securely cover all loads of fill coming to the site with a tight fitting tarp.			
j. Cease grading during periods when winds exceed 25 miles per hour.			
k. Provide for permanent sealing of all graded areas, as applicable, at the earliest practicable time after soil disturbance			
l. Maintain construction equipment in peak operating condition so as to reduce operating emissions.			
m. Use low-sulfur diesel fuel in all equipment.			
n. Use electric equipment whenever practicable.			
o. Shut off engines when not in use.			

Corrections Required (attach copy of correction notice)	Date

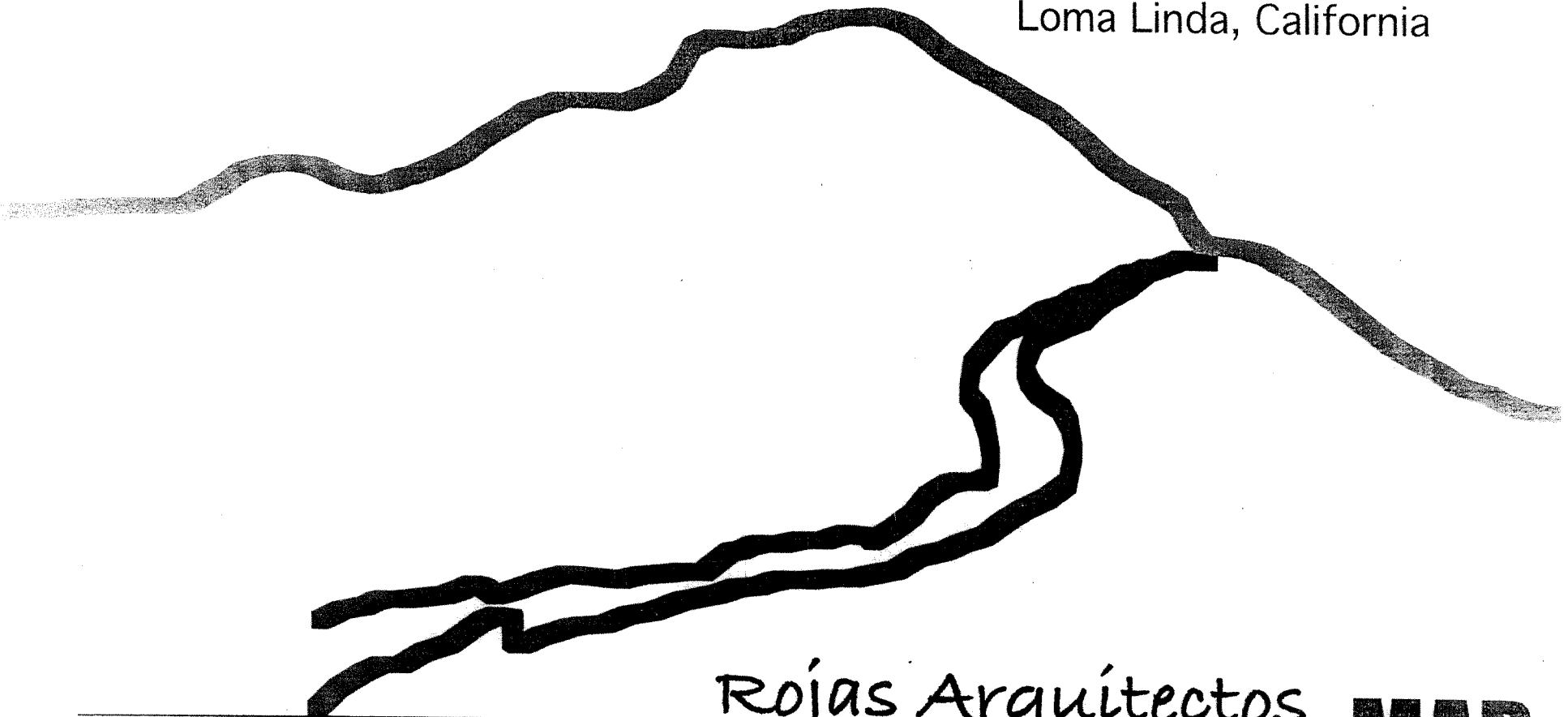
FORM "J"

Attachment D

Project Plans

Creek View Apartments

Loma Linda, California

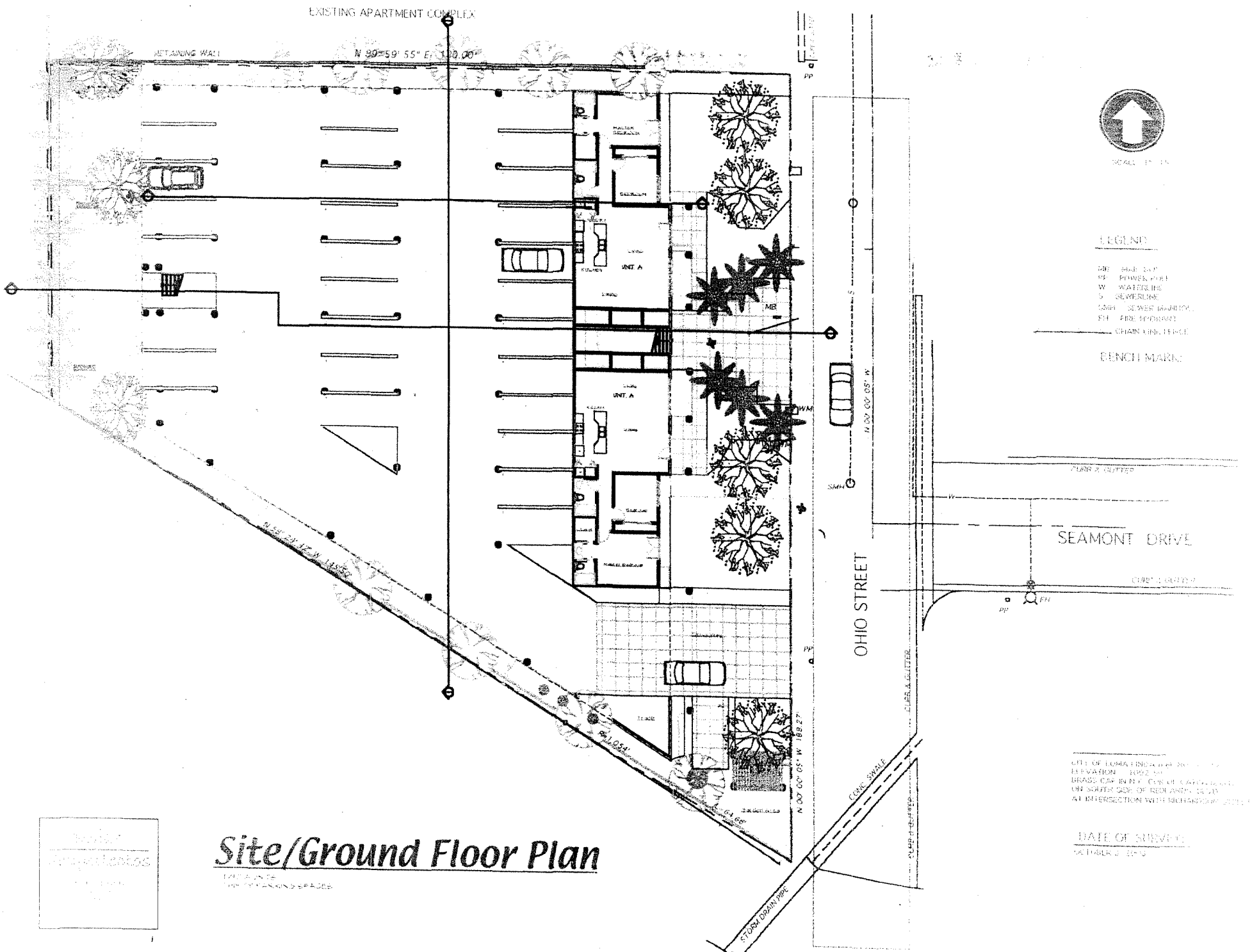


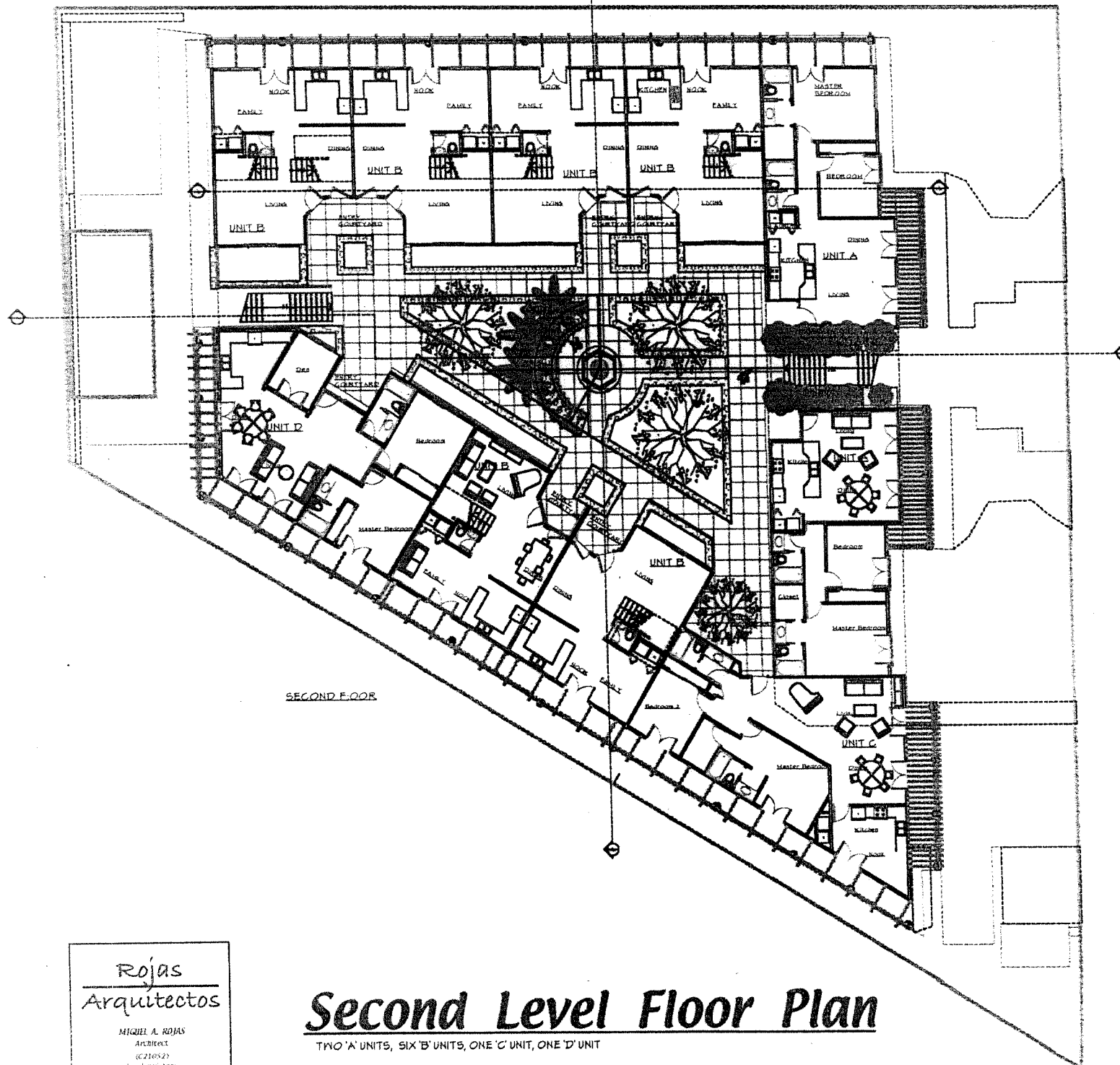
Rojas Arquitectos

25547 Orange Crest Way Loma Linda, California 92354 (909) 796-1034 Fax (909) 796-1034

MAR







Rojas
Arquitectos

MIQUEL A. ROJAS

Architect

(621)6542

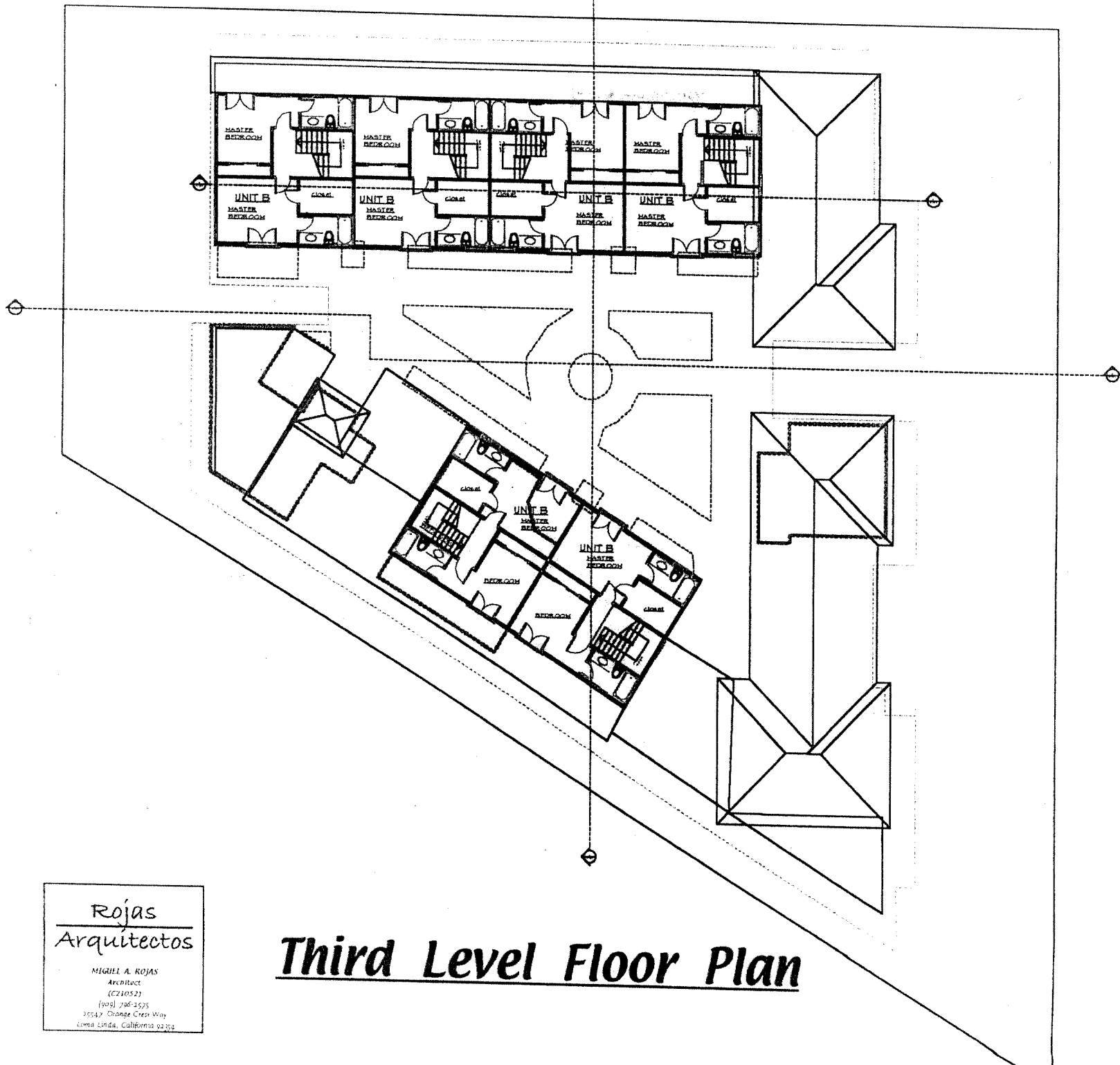
(909) 790-2575

25547 Orange Coast Hwy.

Laurel Canyon, California 91554

Second Level Floor Plan

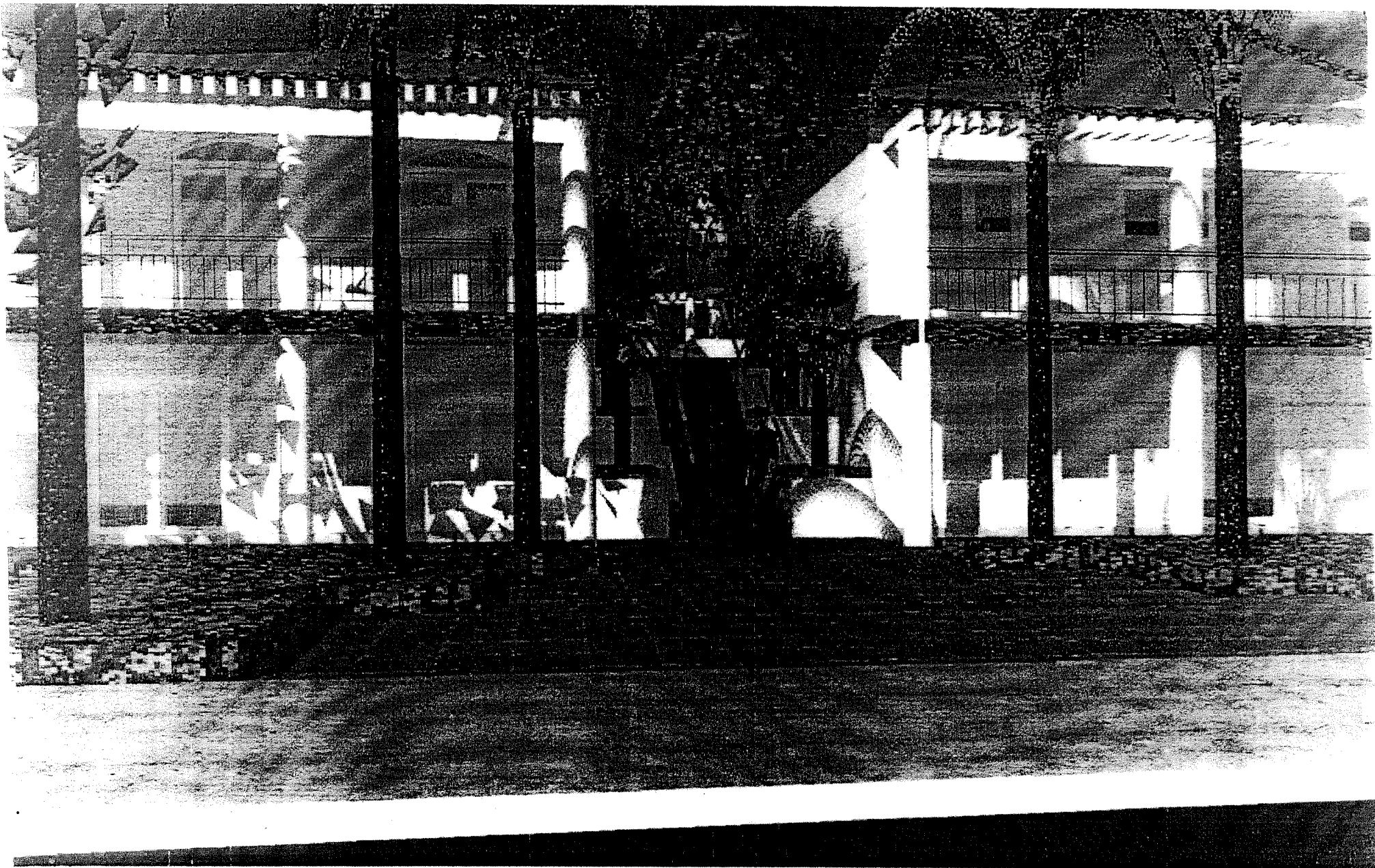
TWO 'A' UNITS, SIX 'B' UNITS, ONE 'C' UNIT, ONE 'D' UNIT



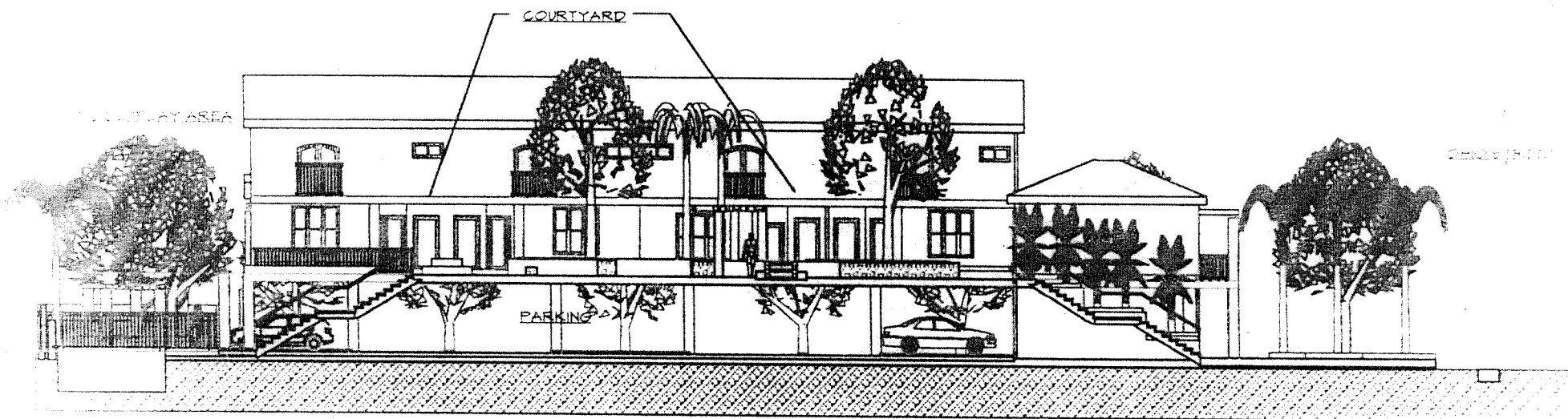
Rojas
Arquitectos

MIGUEL A. ROJAS
Architect
(C21052)
(949) 790-1575
25547 Orange Crest Way
Irvine, California 92614

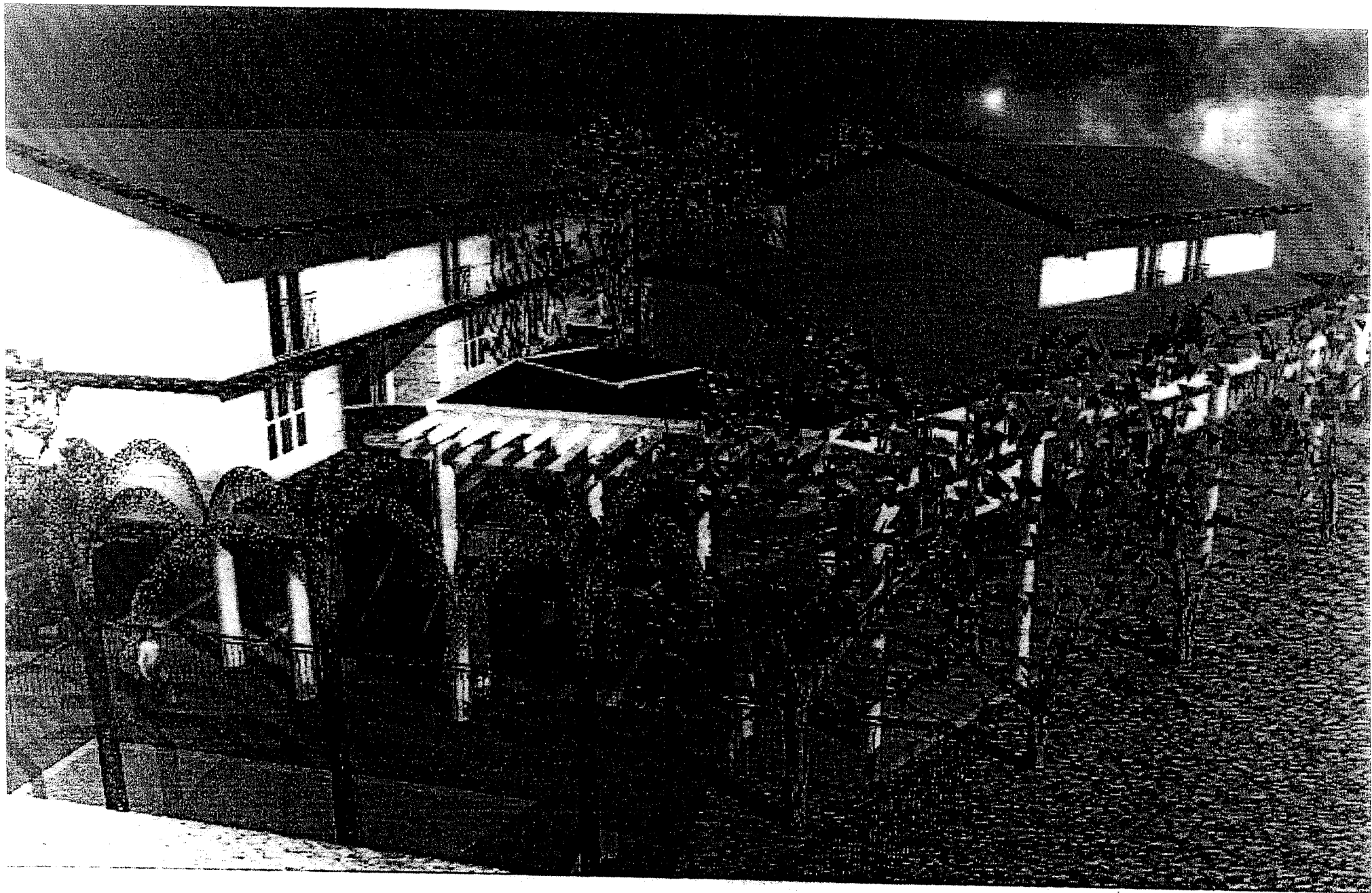
Third Level Floor Plan







SECTION 1





PROJECT SUMMARY

Property: 10690 Ohio Street Loma Linda, CA. 92354(APN 0283-114-77-0-000)
Legal Description: RSB 80 AC SUR PTN LOTS 13 & 14 BLK 75

Lot Size: 24,720 sq. ft. = .568 Acres

Lot Coverage: Ground Floor: Covered Area(Garage& Apts.) 14,807 sq. ft.,
Open/Landscaped Space 9,550 sq. ft.

Second Level: Covered Area(Apts.): 8,940 sq. ft.,
Open/Landscaped Area 6,139 sq.ft.

Third Level: Covered Area(Apts.) 3967 sq. ft.

Lot Coverage: 9,031 sq. ft.(37%)

Total Open Landscaped Space: 15,689 sq.ft.(63%)

Required open/recreation space: 8,400 sq. ft. provided: 8,540 sq.ft.

Maximum building height: 35 feet

Required Parking: 2 per unit =24 spaces plus 6 guest spaces total required: 30 spaces
Total parking provided: 30 spaces

Total Project Square Footage: Living Space: 15,025 sq. ft., Parking Area: 12,767 sq.ft.

TOTAL UNITS: 12

UNIT A (4 units) 1,020 sq. ft. Living/Dining, Kitchen with Breakfast bar, Master Bedroom with Master Bath, Second Bedroom and Bath, Laundry Area.

UNIT B (6 units) 1,400 sq. ft. Living/Dining, Family Room, Kitchen with Breakfast Nook, Laundry Area Half Bath, Two Master Bedrooms with Master Bath. Two Story

UNIT C(1 unit) 1,285 sq. ft. Living/Dining, Kitchen with Breakfast Nook, Laundry Area, Master Bedroom with Master Bath, Second Bedroom and Bath.

UNIT D(1 unit) 1,260 sq. ft. Living/Dining, Kitchen with Breakfast Nook, Den, Master Bedroom with Master Bath, Second Bedroom and Bath, Laundry Area.

Attachment E

Development Agreement

RECORDING REQUEST BY, AND
WHEN RECORDED, MAIL TO:

City Clerk
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354

EXEMPT FROM FILING FEES. CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

DEVELOPMENT AGREEMENT

NO. DA-05-__

BETWEEN

AHD HADDAD

AND

THE CITY OF LOMA LINDA

*(Pursuant to California Government Code Sections 65864 – 65869.5
and City of Loma Linda Ordinance No. ____)*

September __, 2005

PPD 04-15

Table of Contents

	<u>Page</u>
1. DEFINITIONS.	2
1.1 Definitions.....	2
2. GENERAL PROVISIONS.	4
2.1 Binding Effect of Agreement.....	4
2.2 Ownership of Property	4
2.3 Term.....	4
2.4 Assignment.....	4
2.5 Amendment or Cancellation of Agreement	5
2.6 Termination.....	5
2.7 Notices.....	5
3. DEVELOPMENT OF THE PROPERTY.....	6
3.1 Right to Develop	6
3.2 Subsequent Development Approvals	6
3.3 Timing of Development	7
3.4 Changes and Amendments.....	7
3.5 Fiber Optic Network Installation.....	7
3.6 Reservations of Authority.	8
3.7 Referenda and Moratorium	9
3.8 Exactions	10
3.9 [Intentionally omitted].....	10
3.10 City Fees.....	10
4. PUBLIC BENEFITS.	10
4.1 Intent	10
4.2 Enforceable Restriction of Very Low-Income and Lower Income Units; Development Agreement Fee.....	10
5. REVIEW FOR COMPLIANCE.	10
5.1 Periodic Review	10
5.2 Procedure.....	11
5.3 Proceedings Upon Modifications or Termination.....	11
5.4 Hearing on Modification or Termination.....	11
5.5 Certificate of Agreement Compliance.....	11
6. DEFAULT AND REMEDIES.	12
6.1 Enforcement.....	12
6.2 Events of Default.....	12
6.3 Procedure Upon Default.....	12
6.4 Owner's Default	12
6.5 Indemnity	12
6.6 Environmental Indemnity.....	13

Table of Contents
(continued)

	<u>Page</u>
7. MORTGAGEE PROTECTION	13
8. MISCELLANEOUS PROVISIONS.	14
8.1 Recordation of Agreement	14
8.2 Entire Agreement	14
8.3 Severability	14
8.4 Interpretation and Governing Law	15
8.5 Section Headings.....	15
8.6 Singular and Plural	15
8.7 Time of Essence	15
8.8 Waiver.....	15
8.9 No Third Party Beneficiaries Other Than Agency.....	15
8.10 Force Majeure	15
8.11 Mutual Covenants	15
8.12 Successors in Interest	16
8.13 Counterparts	16
8.14 Jurisdiction and Venue.....	16
8.15 Project as a Private Undertaking	16
8.16 Further Actions and Instruments	16
8.17 Authority to Execute	16
8.18 Cooperation	16
EXHIBIT A Description of Property	A-1
EXHIBIT B Land Use Map	B-1
EXHIBIT C Covenants.....	C-1

DEVELOPMENT AGREEMENT NO. _____

This Development Agreement (hereinafter "**Agreement**") is entered into effective as of the date approved by the City of Loma (hereinafter the "**Effective Date**") by the **CITY OF LOMA LINDA** (hereinafter "**City**"), and **AHD HADDAD**, a single man (hereinafter "**Owner**");

RECITALS

WHEREAS, Owner owns property located in the central part of the City consisting of the property at 10690 and 10684 Ohio Street, in the City of Loma Linda, also referred to as A.P.N. 0283-114-77-0-000 which property as combined (the "**Property**") consists of approximately .57 acres. The Property is described on **Exhibit "A"** attached and made a part of this Agreement by this reference; and

WHEREAS, Owner proposes to redevelop (or to cause to be redeveloped) the Property as a multifamily (rental) housing development consisting of twelve (12) dwelling units and related parking (the "**Project**"); and

WHEREAS, the Project has received approval for a mitigated negative declaration, general plan amendment and tentative tract map as well as a conditional use permit, Owner has applied to City for a subdivision map and this Agreement (the "**Entitlements**"); and

WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq., of the Government Code; and

WHEREAS, Owner has requested City to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of City; and

WHEREAS, by electing to enter into this Agreement, City shall bind future City Councils of City by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of City; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by City staff, the Planning Commission and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of City and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all actions taken and approvals given by City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the property subject to this Agreement, ensure progressive installation of necessary public and private improvements, provide for public services appropriate to the development of Owner's development project, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and

WHEREAS, on _____, 2005, the Planning Commission of the City of Loma Linda (the "Planning Commission"), after giving notice pursuant to Government Code Sections 65854, 65854.5 and 65856, held a public hearing on Owner's application for this Agreement. On _____, 2005, the City Council of the City of Loma Linda (the "City Council"), after providing public notice as required by law, similarly held a public hearing to consider Owner's application for this Agreement; and

WHEREAS, the Planning Commission and the City Council have found that this Agreement and the Project contemplated hereby are consistent with the General Plan, the approved tentative map, related project approvals and all other applicable plans, rules, regulations and official policies of City; and

WHEREAS, in accordance with the requirements of CEQA (Public Resources Code Sections 21000 et seq., appropriate studies, analyses, reports or documents were prepared and considered by the Planning Commission and the City Council. After the Planning Commission and the City Council made appropriate findings, the City Council certified, by Minute Order No. LL-2005-____ adopted on _____, 2005, a Mitigated Negative Declaration (the "Environmental Clearance") for the Project in compliance with CEQA; and

WHEREAS, on _____, 2005, the City Council adopted Ordinance No. _____ (the "Ordinance") approving this Agreement with Owner.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agency" means the Loma Linda Redevelopment Agency and the City as its successor in interest.

1.1.2 "Agreement" means this Development Agreement.

1.1.3 "City" means the City of Loma Linda, a political subdivision of the State of California.

1.1.4 "City Council" means the City Council of the City of Loma Linda.

1.1.5 "Covenants" or "Regulatory Agreement" means an agreement in the form of Exhibit "C" hereto.

1.1.6 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of residential dwelling units,

buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.7 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property including, but not limited to:

- (a) General plan;
- (b) Tentative and final subdivision and parcel maps;
- (c) Conditional use permits, variances, site plot plans;
- (d) Zoning amendments;
- (e) Grading and building permits;
- (f) Street and utility improvement permits.

1.1.8 "Development Exaction" means any requirement of City in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests. The term "Development Exaction" or "Exaction" shall not include City administrative, permit processing or other City-wide imposed development fees to cover the estimated or actual costs to City of processing applications for Development Approvals, Subsequent Development Approvals, or costs associated with preparation or implementation of this Development Agreement or for monitoring compliance with any Development Approvals which may be granted or issued pursuant to this Agreement.

1.1.9 "Development Plan" means the Development Approvals and the Land Use Regulations applicable to development of the Property, including but not limited to the Environmental Clearance and RSB 80 AC Suptn Lots 13 & 14 Block 75 Parcel Number 0283-114-77-0-000.

1.1.10 "Effective Date" means the date this Agreement is approved by the City.

1.1.11 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date and all other Approvals which are a matter of public record on the Effective Date.

1.1.12 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date and all other Development Regulations which are a matter of public record on the Effective Date.

1.1.13 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or

dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) The conduct of businesses, professions, and occupations;
- (b) Taxes and assessments;
- (c) The control and abatement of nuisances;
- (d) The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) The exercise of the power of eminent domain.

1.1.14 "Owner" means the persons and entities listed as Owner on page 1 of this Agreement and their successors in interest to all or any part of the Property.

1.1.15 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 "Project" means the development of the Property contemplated by the Development Plan as defined herein as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.17 "Property" means the real property described on **Exhibit "A"** to this Agreement and made a part herein by this reference.

1.1.18 "Subsequent Development Approvals" means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.19 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out in accordance with the terms of this Agreement, including without limitation the Covenants.

2.2 Ownership of Property. Owner represents and covenants that it is the Owner of the fee simple title to the Property.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of seven (7) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement.

2.4 Assignment. Owner shall have the right to sell, transfer or assign the Property as a unitary whole (but not in part) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment

shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement as applied to the Property in whole or in part and be made in compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property;

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, Owner shall notify City, in writing, of such sale, transfer or assignment and shall provide City with an executed agreement, in a form reasonably acceptable to City, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of Owner under this Agreement which apply to the Property in whole or in part being sold, transferred or assigned (including without limitation the Covenants).

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or canceled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Completion of a referendum proceeding or entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by City or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property prior to the Entitlements approved in connection with this Agreement. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination.

2.7 Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below, or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, postage and postal charges

prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to City:

City of Loma Linda
Attn: City Clerk
25541 Barton Road
Loma Linda, CA 92354
Facsimile: (909) 799-2890

With copies to:

Stradling Yocca Carlson & Rauth
Attention: Mark J. Huebsch, Esq.
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Facsimile: (949) 725-4100

and

Director of the Community Development Department
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354
Facsimile: (909) 799-2890

If to Owner:

Ahd Haddad
29848 Live Oak Canyon Road
Redlands, CA 92373
Facsimile: (909) 478-0852
Telephone: (909) 754-8038

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Right to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The City shall issue all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan and consistent with the Entitlements. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation of dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Subsequent Development Approvals. This Agreement shall not prevent City, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations

which do not conflict with the Development Plan, nor shall this Agreement prevent City from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulations not in conflict with the Development Plan.

3.3 Timing of Development. The parties acknowledge that Owner cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of Owner, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Because the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that Owner shall have the right to develop the Property in such order and at such rate and at such time as Owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan.

3.4 Changes and Amendments. The parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or
- (b) Increase the density or intensity of use of the Property as a whole; or
- (c) Increase the maximum height and size of permitted buildings; or
- (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or
- (e) Constitute a project requiring a subsequent or environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.5 Fiber Optic Network Installation. If, and to the extent, Owner constructs and/or installs a fiber optic network ("**the Network**") throughout all or a portion of the Project, Owner shall be subject to the following terms and conditions:

- (a) The Network shall be installed exclusively in easements dedicated to the City and/or dedicated for public utility compatible uses and purposes. To the extent that Owner installs the Network, or any portion thereof, in locations which have not been dedicated to the City and/or dedicated for public utility compatible uses and purposes, it shall provide a dedicated easement to the City coterminous with the location of the Network.

(b) The property in which the Network, or any portion thereof, is located shall be deemed "public rights-of-way" within the meaning of Section 621 of the Cable Communications Policy Act of 1984, as amended.

(c) Owner shall join Underground Alert and provide proper notification pursuant thereto in the event of any excavation relating to the Network.

(d) Owner shall install, at its sole expense, a separate conduit of no less than three (3) inches in diameter in all locations where the Network is located which separate conduit shall be dedicated to the City for its exclusive use (the "**City Conduit**"). Owner shall, in addition, install and dedicate sufficient connection points, manholes, potholes, and other appurtenances as designated by the City in writing to allow the City to reasonably access and utilize the City Conduit.

(e) Owner shall install and dedicate to the City, at its sole cost, twelve (12) strands of unactivated dark fiber throughout the entirety of the Network for remote water meter reading purposes and other municipal purposes (the "**City Fiber**"). The City Fiber shall be connected to all residential units and business establishments located within the Project and shall be accessible to the City from a central location to be designated by the City in writing.

(f) In the event that the Owner, or any successor or assignee thereof, intends to provide or does provide any form of video services on the Network, it shall apply for and obtain, prior to the provision of such video services a cable television franchise from the City and shall be bound by the City's cable television ordinance in effect at said time. Owner agrees not to provide, or allow to be provided, any form of video services on the Network prior to obtaining a cable television franchise from the City.

(g) In the event that Owner, or any successor or assignee thereof, intends to provide or does provide any services which are not video services on the Network, it shall comply with the City's telecommunications ordinance in effect at said time. Owner, its successors and assigns, agrees to be bound by any current or future telecommunications ordinance and agrees not to provide, or allow to be provided, any form of non-video services upon the Network without complying with the telecommunications ordinance, and the provisions thereof, including but not limited to, the payment of a franchise fee or license fee to the extent required by the telecommunications ordinance.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

(a) Processing fees and charges imposed by City to cover the estimated actual costs to City of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the Uniform Building, Plumbing, Mechanical, Electrical, and Fire Codes as adopted and amended by the City of Loma Linda.

(d) Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide Owner with the rights and assurances provided under this Agreement.

(e) Regulations which are not in conflict with the Development Plan. Any regulation, whether adopted by initiative or otherwise, imposing a development moratorium or limiting the rate or timing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the Development of the Property.

3.6.2 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.7 Referenda and Moratorium. It is the express intent of City and Owner that as of the date of this Agreement, this Agreement is a legally binding contract which shall, to the extent permitted by law, prevail over the provisions of any subsequently enacted moratorium, statute, ordinance, limitation or other measure, whether or not enacted by City, or by voter initiative or referendum, and whether or not such initiative, moratorium, referendum, statute, ordinance, limitation or other measure relates, in whole or in part, to the rate, timing, sequencing or phasing of the development or construction of all or part of the Project or the Development Plan or affects Development Approvals which are issued by City.

In the event any initiative, moratorium, referendum, statute, ordinance, limitation or other measure is enacted subsequent to the Effective Date that would otherwise modify the development rights vested pursuant to this Agreement, Owner reserves the right to challenge any such enactment in a court of law should it become necessary to protect the development rights vested in Owner pursuant to the terms and conditions of this Agreement. Should any initiative or referendum be enacted which would preclude or make not feasible construction of all or any part of the Project, and should such enactment be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Owner shall have no recourse against City for any damage Owner might sustain as a result thereof so long as the City did not participate in nor support any such initiative or referendum, except City shall provide for and timely implement an equitable program to reimburse Owner for unused fees and for an equitable reimbursement for Public Improvements or fees theretofore made but not required by the extent of development as of the date of the enactment.

3.8 Exactions. All further applications for Development Approvals contemplated by this Agreement, or made in connection with the development, construction, use or operation of the Project hereunder, shall be processed in accordance with the Existing Rules and the standards, terms and conditions of this Agreement, except that (a) City shall not impose thereunder any further Exactions other than those called for under the Existing Approvals and/or as permitted under the provisions of this Agreement, and (b) such applications and Development Approvals thereunder shall not result in the imposition upon Owner of any additional requirements, other than those already imposed pursuant to the Development Approvals, or otherwise permitted under the provisions of this Agreement.

3.9 [Intentionally omitted].

3.10 City Fees. Owner shall pay all City administrative, permit processing and other city-wide imposed development fees in accordance with the master City Fees Schedule in effect at the time fees are paid.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs which will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance that private benefit conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Enforceable Restriction of Very Low-Income and Lower Income Units; Development Agreement Fee. Owner agrees to enforceably restrict not fewer than one (1) of the dwelling units on the Property to occupancy by renters having incomes not in excess of fifty percent (50%) of median income and at least two (2) additional units to households having incomes not in excess of eighty percent (80%) of median income at "affordable housing cost" for a duration of fifty-five (55) years, all as more particularly set forth in the Covenants. In addition, all units shall be made available as relocation resources benefiting for the Agency and the City as more particularly set forth in the Covenants. The Owner shall execute and cause to be recorded as the Property the Covenants; such recordation, and proof thereof including delivery to City of a conformed copy showing document number and date and time of recordation, shall be accomplished on or before the earlier to occur of: (i) commencement of any construction on the Property; (ii) any transfer or assignment of the Property (or request for City approval thereof); or (iii) the thirtieth (30th) day following second reading of the Ordinance. The Covenants shall be enforceable by each of the City and the Loma Linda Redevelopment Agency (the "Agency").

5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The Director of the Community Development Department shall review this Agreement on or before the first anniversary of the Effective Date, in order to ascertain the good faith compliance by Owner with the terms of the Agreement. Owner shall submit a Monitoring Report, in a form acceptable to the Director of the Community Development Department, within thirty (30) days after written notice from the Director of the Community Development Department. Sections 5.1 and 5.2 are in addition to and do not take precedence over any provisions of the Covenants.

5.2 Procedure.

(a) During either a periodic review or a special review, Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Owner.

(b) Upon completion of a periodic review, the Director of the Community Development Department shall submit a report to the City Council setting forth the evidence concerning good faith compliance by Owner with the terms of this Agreement and his or her recommended finding on that issue.

(c) If the City Council finds on the basis of substantial evidence that Owner has complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(d) If the City Council makes a preliminary finding that Owner has not complied in good faith with the terms and conditions of this Agreement, the City Council may modify or terminate this Agreement as provided in Section 5.3 and Section 5.4. Notice of default as provided under Section 6.3(b) of this Agreement shall be given to Owner prior to or concurrent with, proceedings under Section 5.3 and Section 5.4 or Section 6.5.

5.3 Proceedings Upon Modifications or Termination. If, upon a finding under Section 6.2, City determines to proceed with modification or termination of this Agreement, City shall give written notice to Owner of its intention so to do. The notice shall be given at least ten (10) calendar days prior to the scheduled hearing and shall contain:

(a) The time and place of the hearing; and

(b) A statement as to whether or not City proposes to terminate or to modify the Agreement; and

(c) Such other information as is reasonably necessary to inform Owner of the nature of the proceeding.

5.4 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, Owner shall be given an opportunity to be heard. Owner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. If the City Council finds, based upon substantial evidence, that Owner has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the California Code of Civil Procedure.

5.5 Certificate of Agreement Compliance. If, at the conclusion of a Periodic Review, Owner is found to be in compliance with this Agreement, City shall, upon request by Owner, issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent Periodic Review and based upon the information known or made to the Director of the Community Development Department and the City Council that (1) this Agreement remains in effect and (2) Owner is not in default. The Certificate shall be in recordable form, shall contain information

necessary to communicate constructive record notice of the finding of compliance. Owner may record the Certificate with the County Recorder.

6. DEFAULT AND REMEDIES.

6.1 Enforcement. Unless amended or canceled as herein provided, this Agreement is enforceable by any party to it notwithstanding a change in the applicable general or specific plan, zoning, subdivision, or building regulations adopted by the City which otherwise would alter or amend the rules, regulations, or policies governing permitted uses of the Property, density, design, improvement, and construction standards and specifications applicable to the Development Plan.

6.2 Events of Default. A party to this Agreement is in default under this Agreement upon the happening of one or more of the following events or conditions:

(a) If a warranty, representation or statement made or furnished by Owner to City or City to Owner is false or proves to have been false in any material respect when it was made;

(b) A finding and determination by City or Owner that upon the basis of substantial evidence the City or Owner has not complied in good faith with one or more of the terms or conditions of this Agreement.

6.3 Procedure Upon Default.

(a) Upon the occurrence of an event of default, the non-defaulting party may terminate or modify this Agreement in accordance with the procedures set forth in Subsection 6.3(b) below.

(b) The party claiming default shall provide written notice to the other party specifying the event of default and the steps the other party must take to cure the default. If, within thirty (30) days after the effective date of such notice, the other party does not commence all steps reasonably necessary to bring itself into compliance as required and thereafter diligently pursue such steps to completion, then the other party shall be deemed to be in default under the terms of this Agreement.

(c) All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing development agreements are available to the parties to pursue in the event there is a breach.

6.4 Owner's Default. In the event of any default by Owner, in addition to any other remedies which may be available to City, whether legal or equitable, City shall be entitled to retain any fees, grants, dedications or improvements to public property which it may have received prior to Owner's default without recourse from Owner or its successors or assigns.

6.5 Indemnity. Owner shall indemnify and hold City, its officers, agents and employees and independent contractors free and harmless from any claims or liability based or asserted upon any act or omission of Owner, its officers, agents, employees, subcontractors and independent contractors for property damage, bodily injury, or death (Owner's employees included) or any other element or damage of any kind or nature, relating to or in any way connected with or arising from the activities provided in this Agreement. Owner shall defend, at its expense, including payment of

attorneys' fees, City, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. City may in its discretion participate in the defense of any such legal action.

6.6 Environmental Indemnity. Owner shall defend, indemnify and hold City, its officers, agents, employees, and independent contractors free and harmless from any claims or liability based upon or arising from the presence of any Hazardous Substance on any of the Property located in the Project. As used herein, "Hazardous Substance" shall mean any "hazardous substances," "toxic substance," "hazardous waste," or "hazardous material" as defined in one or more Environmental Laws, whether now in existence or hereinafter enacted; provided, however, that "Hazardous Substance" shall (i) include petroleum and petroleum products (other than naturally occurring crude oil and gas) and (ii) include radioactive substances which are not naturally occurring, and (iii) include any friable or non-friable asbestos or asbestos-containing material contained in or affixed to a structure existing on the Property or otherwise located in, on or about the Property as of the date of this Agreement. As used herein, "Environmental Laws" shall mean any and all federal, state, municipal and local laws, statutes, ordinances, rules, and regulations which are in effect as of the date of this Agreement, or any and all federal, or state laws, statutes, rules and regulations which may hereafter be enacted and which apply to the Property or any part thereof, pertaining to the use, generation, storage, disposal, release, treatment or removal of any Hazardous Substances, including without limitation, the Comprehensive Environmental Response Compensation Liability Act of 1980, 42 U.S.C. Sections 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, et seq., ("RCRA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and California Health and Safety Code Section 25100, et seq. Owner acquired the Property pursuant to a real property purchase and sales agreement entered into with Abraham and Melissa De Guzman in 2003 (the "**Purchase Agreement**"). To the extent that Owner is or may be entitled to defense or indemnification from one or more of the Prior Owners in connection with the presence of any such Hazardous Substances on the Property as provided in one or more of the Purchase Agreement, Owner shall assert any such defenses or indemnification rights on behalf of City, its officers, agents, employees, and independent contractors, or assign such rights to City, at City's option. However, Owner's obligation to defend, indemnify and hold harmless City and its officers, employees, agents or independent contractors from any claims or liability in connection with or arising from the presence of any Hazardous Substance on the Property or any portion thereof shall not be in any way limited or eliminated by the terms of the Purchase Agreement, and Owner's obligation hereunder shall survive the termination of this Development Agreement, no matter how caused. Notwithstanding anything herein to the contrary, Owner shall have no obligation to indemnify the City as herein provided with respect to any Hazardous Substances which are proven by Owner to have been first brought onto the Property subsequent to the sale by the Owner of the Property, or the affected portions thereof.

7. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Owner with representatives of such lenders to negotiate in good faith any such request for interpretation or modification; provided that the Agency will not subordinate the Covenants. City

will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement; provided that the Agency will not subordinate the Covenants. Any mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City or any default by Owner in the performance of Owner's obligations under this Agreement.

(c) If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to Owner under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Owner. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have any obligation or duty under this Agreement to perform any of Owner's obligations or other affirmative covenants of Owner hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Owner is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

8.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

8.3 Severability. If any terms, provisions, covenants or conditions of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform

taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provisions of Development of the Property set forth in Section 3 and the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and City and Owner would not have entered into this Agreement but for such provisions and if determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

8.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed by interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

8.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

8.6 Singular and Plural. As used herein, the singular of any word includes the plural.

8.7 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

8.8 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

8.9 No Third Party Beneficiaries Other Than Agency. The Agency shall be a third party beneficiary of this Agreement. Excepting for the Agency, there shall be no third party beneficiaries of this Agreement. No person other than the parties and the Agency shall have any right of action based upon any provision of this Agreement.

8.10 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the terms of this Agreement shall not be extended under any circumstances for more than two (2) years as a result of any such force majeure event.

8.11 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed by such benefited party.

8.12 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

8.13 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

8.14 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

8.15 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Owner is that of a government entity regulating the development of private property and the Owner of such property.

8.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

8.17 Authority to Execute. The person(s) executing this Agreement on behalf of Owner warrants and represents that he, she or they has/have the authority to execute this Agreement on behalf of his, her or their corporation, partnership or business entity and warrants and represents that he, she or they has/have the authority to bind Owner to the performance of its obligations hereunder.

8.18 Cooperation. City agrees that it shall accept for processing and promptly take action on all applications, provided they are in a proper form and acceptable for required processing, for discretionary permits, tract or parcel maps, or other land use entitlements for development of the Project in accordance with the provisions of this Agreement. City shall cooperate with Owner in providing expeditious review of any such applications, permits or land use entitlements and, upon request and payment of any costs and/or extra fees associated therewith by Owner, City shall assign such review to Project planner(s), building inspector(s), other staff personnel and/or contract planning or engineering consultants as required to insure the expeditious review, processing and completion of the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date as described above.

“CITY”

THE CITY OF LOMA LINDA, a municipal corporation of the State of California

By: _____
Mayor

ATTEST:

Pamela Byrnes-O’Camb, City Clerk

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth
By: Mark J. Huebsch, Esq.

“OWNER”

AHD HADDAD

Ahd Haddad

*ALL SIGNATURES ARE TO BE ACKNOWLEDGED
BEFORE A NOTARY PUBLIC*

STATE OF CALIFORNIA)

)

) ss.

COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

STATE OF CALIFORNIA)

)

) ss.

COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me
-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

EXHIBIT "A"

DESCRIPTION OF PROPERTY

[To Come]

Assessor's Parcel No.: 0283-114-77-0-000

EXHIBIT "B"
LAND USE MAP

EXHIBIT "C"

COVENANTS

Recording Requested by:)
)
When Recorded Return to and)
Mail Tax Statements to:)
)
City of Loma Linda)
25541 Barton Road)
Loma Linda, California 92354)
Attn: City Clerk)
)

(Space above for Recorder's Use.)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

By: _____

REGULATORY AGREEMENT

These Covenants, Conditions and Restrictions, herein sometimes referred to as these "CC&Rs" or "Declaration" or "Regulatory Agreement" are made by the signatories hereto.

RECITALS

WHEREAS, each of the **Loma Linda Redevelopment Agency**, a public body, corporate and politic ("Agency"), the **City of Loma Linda**, a municipal corporation ("City"), and **Ahd Haddad**, a single man ("Developer") is a party to this Declaration. The Agency, the City and the Developer are sometimes collectively referred to herein as the "Declarants".

WHEREAS, the City and the Developer have entered into that certain Development Agreement dated as of _____, 2005 (the "DA"). The DA is on file with the City as a public record and is deemed incorporated herein by reference. This Regulatory Agreement, which is entered into as a requirement of and in implementation of the DA, shall apply only to the "Site," which consists of certain real property described in Attachment No. 1 hereto.

WHEREAS, this Regulatory Agreement specifically requires that not fewer than one (1) dwelling units on the Site be maintained and occupied after completion by very low income households at affordable housing cost and an additional two (2) dwelling units on the Site be maintained and occupied after completion by lower income households at affordable housing cost as more particular provided herein.

WHEREAS, this Regulatory Agreement establishes a plan for the improvement, development and maintenance of the Site, for the benefit of the Project Area, as well as the rest of the City.

WHEREAS, it is contemplated under the DA that, as of the recordation of this Regulatory Agreement, the Developer holds title to the "Site" and described in the legal description attached hereto as Attachment No. 1 and incorporated herein by this reference.

WHEREAS, the DA sets forth certain restrictive covenants applicable to the Site, particularly the use of the Site for the provision of one (1) rental housing units available to Very Low Income Households at Affordable Rent and not fewer than two (2) additional rental housing units available to Lower Income Households at Affordable Rent as those terms are defined herein.

WHEREAS, Agency, City, and Developer wish to adopt this Regulatory Agreement to further govern the use of the Site in conjunction and along with the DA and to ensure that the Agency achieves credit for production of affordable housing units pursuant to Section 33413 of the California Health and Safety Code.

NOW, THEREFORE, the Agency and the City each of the Developer (as owner of real property interests described hereinabove), in the City, declares that the Site shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the Covenants, Conditions and Restrictions hereinafter set forth expressly and exclusively for the use and benefit of said property, and the Agency and the City. Each and all of the restrictions, limitations, conditions, covenants, liens, reservations and charges herein contained shall run with the land and be recorded on the property title and shall be binding on Declarants, their grantees, successors, heirs, executors, administrators, devisees or assigns, and all subsequent owner of all or any part of the Site.

ARTICLE I **DEFINITIONS**

The definitions provided herein shall be applicable to this Declaration and also to any amendment or supplemental Declaration (unless the context implicitly or explicitly shall prohibit), recorded against the Site pursuant to the provision of this Declaration.

Section 1. "Affordable Housing Project" means an affordable housing project consisting of twelve (12) rental units operated in conformity with this Regulatory Agreement throughout the Required Covenant Period.

Section 2. "Affordable Rent" has the meaning set forth in Health and Safety Code Section 50053. For a Very Low Income Household, Affordable Rent means a monthly housing cost which does not exceed one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of the Median Income for the Area for a household size appropriate to the unit. For a Lower Income Household, Affordable Rent means a monthly housing cost which does not exceed one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of the Median Income for the Area. "Household size appropriate to the unit," as used herein, shall mean two persons for each one-bedroom unit (if any), and three persons for each two bedroom unit. The maximum monthly rental amount of the units shall be adjusted annually by the formula set forth above upon the promulgation of revised median income figures for San Bernardino County by regulation of the California Department of Housing and Community Development.

Section 3. "Affordable Rent Worksheet" means the worksheet substantially in the form of Attachment No. 2 to this Regulatory Agreement.

Section 4. "Agency" means the Loma Linda Redevelopment Agency and its successors in interest.

Section 5. "Approved Housing Project" means all improvements as provided to be developed by Developer under the DA. The Approved Housing Project must be completed in strict conformity with all specifications contained in or referred to in the DA.

Section 6. "Area" means San Bernardino County or such statistical area which includes the Site as may from time to time be designated by HUD.

Section 7. "Certificate" or "Certification" is defined in Section 3(a).

Section 8. "City" means and refers to the City of Loma Linda, a municipal corporation.

Section 9. "City Code" means and refers to the City of Loma Linda Municipal Code as revised from time to time.

Section 10. "Common Areas" means all areas on the Site that are open or accessible to all tenants of the Site (such as grounds, but excluding buildings).

Section 11. "Date of Agreement" means _____, 2005.

Section 12. "Gross Income" means all payments from all sources received by a person (together with the gross income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) whether in cash or in kind as calculated pursuant to the Department of Housing and Urban Development ("HUD") Regulations (24 C.F.R. § 813) in effect as of the Date of Agreement.

Section 13. "Income Verification" means a form or forms to be obtained from Agency to be used in obtaining and verifying incomes of prospective purchasers and may be in the form of Attachment No. 3 hereto.

Section 14. "Lower Income Household" shall mean a household earning not greater than eighty percent (80%) of median income for the Area as set forth by regulation of the California Department of Housing and Community Development, pursuant to Health and Safety Code Section 50079.5.

Section 15. "Lower Income Unit" or "Low Income Unit" means a Unit occupied at Affordable Rent by a Low Income (or Lower Income) Household.

Section 16. "Median Income for the Area" means the median income for the Area as most recently determined by the Secretary of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, or, if programs under Section 8 are terminated, Median Income for the Area determined under the method used by the Secretary prior to such termination.

Section 17. “Prescribed Rent Levels” means rent that is Affordable Rent for households at the following income levels: (i) for at least one (1) Unit, fifty percent (50%) of Median Income; and (ii) for an additional two (2) Units, eighty percent (80%) of Median Income.

Section 18. “Regulatory Agreement” means this Regulatory Agreement and any amendments, modifications or supplements which may also be referred to herein as these “CC&Rs” or this “Declaration”.

Section 19. “Rental Project” means the twelve (12)-unit residential rental development on the Site, including parking and related facilities as more particularly described in the Department of Community Development file RSB 80AC Suptn Lots 13 & 14 Block 75 Parcel Number 0283-114-77-0-000.

Section 20. “Required Affordable Unit” means a dwelling unit in the Rental Project, as rehabilitated or reconstructed under the DA, and available to, occupied by, or held vacant for occupancy only by tenants qualifying as Very Low Income Households or Lower Income Households and rented at Affordable Rent conforming to the Prescribed Rent Levels.

Section 21. “Required Covenant Period” means the period commencing on the date this Regulatory Agreement is recorded and ending fifty-five (55) years thereafter.

Section 22. “Site” means all of the real property and appurtenances as described above, including all structures and other improvements thereon, and those hereafter constructed.

Section 23. “Unit” means a dwelling unit in the Rental Project.

Section 24. “Very Low Income Households” means Very Low Income Households whose Adjusted Income does not exceed fifty percent (50%) of Median Income for the Area as determined by the United States Department of Housing and Urban Development from time to time and as set forth in Health and Safety Code Section 50105.

Section 25. “Very Low Income Unit” means a Unit occupied at Affordable Rent by a Very Low Income Household.

ARTICLE II

LAND USE RESTRICTIONS; IMPROVEMENTS

Section 1. Uses. The Developer shall develop the Approved Housing Project on the Site in conformity with the DA. Thereafter, the Site shall be operated as an Affordable Housing Project and devoted only to the uses specified in the DA for the periods of time specified herein. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to the DA, shall conform to all applicable provisions of the Loma Linda Municipal Code and the City Approvals.

The Site shall be used, maintained and operated in accordance with the DA and this Regulatory Agreement for the Required Covenant Period. None of the units in the Rental Project shall at any time be utilized on a transient basis nor shall the Rental Project or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home or trailer court or park. No part of the Site, from the date the

Developer acquired the Site, has been or will at any time be owned or used as a cooperative housing corporation or a community apartment project or a stock cooperative.

Section 2. Affordable Housing.

Number of Units. Throughout the Required Covenant Period, not less than three (3) of the Units shall be rented as "Prescribed Rent Levels" means rent that is Affordable Rent for households at or below the following income levels: (i) for one (1) Unit, fifty percent (50%) of Median Income; and (ii) for two (2) Units, eighty percent (80%) of Median Income. Required Affordable Units shall be continuously occupied by or held available for occupancy by Very Low Income Households or, if applicable, Lower Income Households at an Affordable Rent. All Affordable Units shall be rented at Affordable Rent. For this purpose, a tenant who qualifies as a Very Low Income Household (or a Lower Income Household) at the time he or she first occupies an Affordable Unit shall be deemed to continue to be so qualified until such time as a recertification of such individual's or family's income in accordance with Section 3 below demonstrates that such individual or family no longer qualifies as a Very Low Income Household (or a Lower Income Household). Moreover, a unit previously occupied by a Very Low Income Household (or a Lower Income Household), and then vacated shall be considered occupied by such Very Low Income Household (or a Lower Income Household) until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed thirty-one (31) days.

At such time as a tenant ceases to qualify as a Very Low Income Household (or a Lower Income Household), the unit occupied by such tenant shall cease to be a Very Low Income Unit (or a Lower Income Unit). The Developer shall replace each such Very Low Income Unit (or a Lower Income Unit) by designating the next available unit and any necessary units thereafter as a Very Low Income Unit (or a Lower Income Unit). For purposes of this Agreement, such designated unit will be considered a Very Low Income Unit (or a Lower Income Unit) if it is held vacant and available for occupancy by a Very Low Income Household (or a Lower Income Household), and, upon occupancy, the income eligibility of the tenant as a Very Low Income Household (or a Lower Income Household) is verified and the unit is rented at Affordable Rent.

In the event a household's income initially complies with the corresponding income restriction (for a Very Low Income Household or a Lower Income Household, whichever is applicable) but the income of such household increases, such increase shall not be deemed to result in a violation of the restrictions of this Regulatory Agreement concerning limitations upon income of occupants, provided that the occupancy by such household is for a reasonable time of not to exceed one year (measured from the time the income of the household ceases to qualify at the designated affordability level). The Developer shall include in its rental agreements provisions which implement this requirement and limitation, and the Developer shall expressly inform prospective renters as to this limitation prior to the commencement of a tenancy.

Duration of Affordability Requirements. The Required Affordable Units shall be available to and occupied by Very Low Income Households or, within the limitations set forth above, Lower Income Households, at Affordable Rent throughout the Required Covenant Period. All tenants residing in the Affordable Units during the last two (2) years of the Required Covenant Period shall be given notice by the Developer at least once every six (6) months prior to the expiration date of this requirement, that the rent payable on the Affordable Unit may be raised to a market rate rent at the end of the Required Covenant Period.

Selection of Tenants. As specified hereinbelow, Developer shall demonstrate to the Agency that the proposed tenants of each of the Required Affordable Units constitutes a Very Low Income Household or, within the limitations set forth above, a Lower Income Household.

Prior to the rental or lease of an Required Affordable Unit to a tenant, and as set forth in this Section 2 of Article II of this Declaration, the Developer shall require the tenant to execute a written lease and to complete an Income Verification certifying that the tenant(s) occupying the Required Affordable Unit is/are a Very Low Income Household or, if applicable, a Lower Income Household and meet(s) the eligibility requirements established for the Required Affordable Unit. The Developer shall verify the income of the tenant(s).

The Developer shall accept as tenants on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor. The Developer shall not apply selection criteria to Section 8 certificate holders which are more burdensome than criteria applied to any other prospective tenants.

Determination of Affordable Rent for the Affordable Units. The Affordable Units shall be rented or leased at Affordable Rent. As of the approval of the DA, Affordable Rent is calculated in accordance with the Affordable Rent Worksheet. The maximum monthly rental for the Affordable Unit shall be adjusted annually as permitted by Section 50053 of the California Health and Safety Code based on the annual adjustment to the Median Income for the Area established pursuant to Section 50093 of the California Health and Safety Code, as more particularly set forth in the Affordable Rent Worksheet.

THE DEVELOPER UNDERSTANDS AND KNOWINGLY AGREES THAT THE MAXIMUM RENTAL FOR THE AFFORDABLE UNITS ESTABLISHED BY THE DA AND THIS REGULATORY AGREEMENT IS SUBSTANTIALLY BELOW THE FAIR MARKET RENT FOR THE AFFORDABLE UNITS.

Developer Initials: _____

Section 3. Developer Verification and Program Compliance.

Income Verification and Certification. The Developer will obtain and maintain on file an Income Verification from each tenant, dated immediately prior to the initial occupancy of such tenant in the Rental Project.

On July 31, 2006 and annually thereafter, the Developer shall file with the Agency or its designee a Certificate, containing all information required pursuant to Health and Safety Code Section 33418, in a form prescribed by the Agency. Each Certificate shall cover the immediately preceding fiscal year.

Reporting Amounts. Agency is required by Section 33418 of the California Health and Safety Code to require Developer to monitor the Affordable Units and submit the annual reports required by Section 3 of Article II of this Declaration. The Agency relies upon the information contained in such reports to satisfy its own reporting requirements pursuant to Sections 33080 and 33080.1 of the California Health and Safety Code. In the event the Developer fails to submit to the Agency or its designee the Certification as required by Section 3(a), the Developer shall be in

noncompliance with this Regulatory Agreement. In the event the Developer remains in noncompliance for thirty (30) days following receipt of written notice from the Agency of such noncompliance under Sections 3(a) and 3(b) of Article II hereinabove, then the Developer shall, without further notice or opportunity to cure, pay to the Agency Two Hundred Fifty Dollars (\$250.00) per Required Affordable Unit for each year Developer fails to submit a Certificate covering each and every housing unit on the Site.

Section 4. Nondiscrimination. The Developer shall refrain from restricting the rental, sale or lease of the Site, or any portion thereof, on the basis of race, color, creed, religion, sex, marital status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises."

The covenants established in this Declaration and the deeds of conveyance for the Site shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, the City and any successor in interest to the Site, together with any property acquired by the Developer pursuant to this Agreement, or any part thereof. The covenants against discrimination as set forth in this Section 1 of Article II shall remain in effect in perpetuity.

Section 5. Keeping of Animals. No animals of any kind shall be raised, bred or kept on the Site, except that domesticated dogs, cats or other household pets may be kept by the tenants in the Rental Project at the discretion of Developer and subject to compliance with all laws. However, no animal shall be kept, bred or maintained for any commercial purpose or for fighting purposes. Nothing permitted herein shall derogate in any way the right of the Developer to further restrict keeping of pets.

Section 6. Parking of Vehicles. The Developer shall not permit the parking, storing or keeping of any vehicle except wholly within the parking areas designated for the Required Affordable Units. The Developer shall not permit the parking, storing or keeping of any large commercial type vehicle (dump truck, cement mixer truck, oil or gas truck, etc.), or any recreational vehicle over twenty (20) feet in length (camper unit, motor home, trailer, mobile home or other similar vehicle), boats over twenty (20) feet in length, or any vehicle other than a private passenger vehicle, upon any portion of the Common Areas, including parking spaces. For purposes of this section, a pickup truck with a pickup bed mounted camper shall be considered a private passenger vehicle; provided however, that no such vehicle shall be used for residential purposes while parked on the premises.

The Developer shall not permit major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle to be conducted upon any portion of the Common Area, including the parking areas, except for emergency repairs thereto and then only to the extent necessary to enable movement of the vehicle to a proper repair facility. No inoperable vehicle shall be stored or kept in the Common Area. The Developer shall give the vehicle owner not less than four (4) days, nor more than seven (7) days notice and an opportunity to remove any vehicle parked, stored or kept in violation of the provisions of this Declaration. Notice shall consist minimally of a reasonably diligent attempt to personally notify the vehicle owner or alternatively leaving written notice on the subject vehicle. After due notice and opportunity have been given to the vehicle owner, the Developer shall have the right to remove, at the vehicle owner's expense, any vehicle parked, stored or kept in violation of the provisions of this Declaration.

Section 7. Maximum Occupancies. No persons shall be permitted to occupy any Apartment within the Rental Project in excess of applicable limit of maximum occupancy set by the Loma Linda Municipal Code and the laws of the State of California.

Section 8. Signs Required. "No loitering" signs will be posted at each building and enforced by the owner(s). "Illegally parked vehicles will be towed" signs in compliance with California Vehicle Code requirements will be posted and enforced by the Developer.

Section 9. Fences and Electronic Installations. The Developer shall not install or knowingly permit to be installed on the exterior of any improvement or building on any fences or any antenna or other television or radio receiving device, excepting satellite dishes having a diameter of eighteen inches (18") or less, without prior written consent of City. This prohibition shall not prohibit the installation of cable television or subscription wires or receiving devices.

Section 10. Structural Change. Nothing shall be done on the Site in, on or to any building which would structurally change the exterior or the interior bearing walls of any such building or structure, except as otherwise provided herein. Nothing herein shall affect the rights of the Developer to repair, alter or construct improvements on the buildings on the Site unless such repair, alteration or improvement would impair the structural integrity and/or exterior appearance of said

buildings. Nothing herein shall be deemed to prohibit work ordered to be performed by the City building official.

Section 11. Compliance with Laws. The Developer shall comply with all applicable laws in connection with the development and use of the Site, including without limitation the California Community Redevelopment Law (Health and Safety Code section 33000, *et seq.*) and Fair Housing Act (42 U.S.C. § 3601, *et seq.*, and 24 C.F.R. § 100.300, *et seq.*). The Developer is a sophisticated party, with substantial experience in the development and operation of affordable housing projects, and with the negotiation, review, and preparation of agreements and other documents in connection with such activities. The Developer is familiar with and has reviewed all laws and regulations pertaining to the acquisition, development and operation of the Rental Project and has obtained advice from any advisers of its own choosing in connection with this Agreement.

Section 12. City and Agency Priority Rights to Rent Units. The Agency shall retain, at all times during the Required Covenant Period, a priority right as to three (3) of the Units to rent or to designate the renters for such Units. Before the Units are initially rented upon completion of initial construction of the Units and thereafter upon the occurrence of the vacancy of each Unit (or the earlier receipt by Developer of notice that a tenant will vacate a Unit), the Developer shall notify Agency in writing, which shall be dated and signed by the Developer or successor owner of the Site, of the vacancy ("Vacancy Notice") and shall include with such notification a certification as to whether one (1) Unit is being rented to and occupied by a Very Low Income Household at Affordable Rent (the "Very Lower Income Unit") and as to whether two (2) Units (and if a lower number, such lower number) are being rented to and occupied by Lower Income Households at Affordable Rent (the "Lower Income Units").

In the event fewer than one (1) of the Units is rented to and occupied by a Very Low Income Households at Affordable Rent as of the date such notice is given, then the rental to the Agency (or its designee) of one (1) Unit, which rental to Agency (or its designee) shall be for a term designated by the Agency, shall not exceed Affordable Rent for a Very Low Income Household.

In the event fewer than two (2) of the Units are rented to and occupied by Lower Income Households at Affordable Rent as of the date such notice is given, then the rental to the Agency (or its designee) of one (1) or, at Agency's option, two (2) of the Units (until such time as not fewer than two (2) of the Units are rented to and occupied by Lower Income Households at Affordable Rent), which rental to Agency (or its designee[s]) shall be for a term designated by the Agency, shall not exceed Affordable Rent for a Lower Income Household.

In the event at least one (1) of the Units is rented to and occupied by a Very Low Income Household at Affordable Rent and at least two (2) of the Units are rented to and occupied by Lower Income Households at Affordable Rent as of the date such notice is given, then the Agency may rent up to three (3) Units at such time at market rent. Upon receipt of notice of each Vacancy Notice, the Agency shall have thirty (30) days from the receipt of such Vacancy Notice to notify the Developer as to whether the Agency intends to rent the Unit(s) (or to designate a tenant for the Unit[s]).

At its discretion, and without obligation to so do (and in the absence of which payment the Developer shall nevertheless remain obligated to maintain at least one Very Low Income Unit and at least two Lower Income Units, each at Affordable Rent), the Agency may agree to pay rent for a unit for up to four (4) months, during which the Unit(s) for which payment is made by Agency shall be occupied by a tenant designated by the Agency who has been displaced by activities of the Agency or

the City and whose income and household size conforms to the requirements and limitations of this Declaration or, at Agency's option, the Unit shall be held vacant during such period.

Any rental agreement with the Agency (whether at Affordable Rent or otherwise) shall allow the Agency to assign or sublet its rental of the specific Unit in question.

Agency may, at its option, assign its rights under this Section 12 to the City.

ARTICLE III

DUTIES OF DEVELOPER: SPECIFIC MAINTENANCE RESPONSIBILITIES

Section 1. Exterior Building Maintenance. All exterior, painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking and defacing marks. Any such defacing marks shall be cleaned or removed within a reasonable period of time as set forth herein.

Section 2. Front and Side Exteriors. The Developer shall at all times maintain the front exterior and yard in a clean, safe and presentable manner, free from defacing marks or any disrepair and any visible side exteriors. The Developer shall hire maintenance personnel to maintain and/or repair any front exterior or yard or visible side yard and exterior of any lot or building.

Section 3. Graffiti Removal. All graffiti, and defacement of any type, including marks, words and pictures must be removed and any necessary painting or repair completed by the later to occur of (i) seventy-two (72) hours of their creation or (ii) seventy-two (72) hours after notice to Developer.

Section 4. Driveways. All driveways must be paved and maintained with impervious material in accordance with the Loma Linda Municipal Code. In addition, all water must be made to drain freely to the public part of the waterway without any pooling.

Section 5. Exterior Illumination. The Developer shall at all times maintain adequate lighting in all entrance ways, garages and parking areas. Adequate lighting shall mean outdoor, night lighting designed and installed, which provides no less than one (1.0) foot candles in the parking areas and no less than one and one-half (1-1/2) foot candles in the walking areas or common areas and no less than 0.2 foot candles at the point of least illumination.

Section 6. Front Setbacks. All front setback areas that are not buildings, driveways or walkways shall be adequately and appropriately landscaped in accordance with minimum standards established by the City and shall be maintained by the Developer. The landscaping shall meet minimum standards set from time to time by the City.

Section 7. Trash Bins. All trash shall be collected and placed at all times in an enclosable bin to be placed in a designated refuse/trash bin area. The designated area shall be located so that the bin will, to the extent possible, be readily accessible from the street.

Section 8. Prohibited Signs. No sign of any kind shall be displayed to the public view on or from any portion of the Site without the approval of the City and appropriate City departments if any as required by the City Code.

ARTICLE IV

OBLIGATION TO MAINTAIN, REPAIR AND REBUILD

Section 1. Maintenance by Developer. The Developer shall, at its sole cost and expense, maintain and repair the Site and the improvements thereon keeping the same in a decent, safe and sanitary manner, in accordance with the United States Department of Housing and Urban Development ("HUD") Housing Quality Standards ("HQS"), and in good condition and making all repairs as they may be required by these CC&Rs and by all applicable Municipal Code and Uniform Code provisions. The Developer shall also maintain the landscaping required to be planted in a healthy condition. If, at any time, Developer fails to maintain the Rental Project or any portion thereof, and said condition is not corrected after the expiration of forty-five (45) days from the date of written notice from the Agency, either the Agency or the City may perform the necessary maintenance and Developer shall pay such costs as are reasonably incurred for such maintenance. Payment shall be due within fifteen (15) days of receipt of an invoice from the Agency or the City.

Section 2. Damage and Destruction Affecting Project - Developer's Duty to Rebuild. If all or any portion of the Site and the improvements thereon is damaged or destroyed by fire or other casualty, it shall be the duty of the Developer to rebuild, repair or reconstruct said portion of the Site and/or the improvements in a timely manner which will restore it to Code compliance condition.

In furtherance of the requirements of this Section 2, Developer shall keep the construction on the Site insured by carriers at all times satisfactory to Agency against loss by fire and such other hazards, casualties, liabilities and contingencies as included within an all risk extended coverage hazard insurance policy, in an amount of the full replacement cost of the constructions. In the event of loss, Developer shall give prompt notice to the insurance carrier and to the Agency.

If the Site is abandoned by the Developer, or if Developer fails to respond to Agency within thirty (30) days from the date notice is mailed by Agency to Developer that the insurance carrier offers to settle a claim for insurance benefits, Agency is authorized to collect and apply the insurance proceeds at Agency's option either to restoration or repair of the Site.

Section 3. Variance in Exterior Appearance and Design. In the event the Rental Project sustains substantial physical damage due to a casualty event, the Developer may apply to the City of Loma Linda for approval to reconstruct, rebuild or repair in a manner which will provide different exterior appearance and lot design from that which existed prior to the date of the casualty.

Section 4. Time Limitation. Upon damage to the Site or the Rental Project or other improvements, the Developer shall be obligated to proceed with all due diligence hereunder and commence reconstruction within two (2) months after the damage occurs and complete reconstruction within six (6) months after damage occurs or demolition and vacate within two (2) months, unless prevented by causes beyond their reasonable control, in which event reconstruction shall be commenced at the earliest feasible time.

ARTICLE V ENFORCEMENT

Section 1. Remedies. Breach of the covenants contained in the Declaration may be enjoined, abated or remedied by appropriate legal proceeding by the Agency or City.

This Declaration does not in any way infringe on the right or duties of the City of Loma Linda to enforce any of the provisions of the Loma Linda Municipal Code including, but not limited to, the abatement of dangerous buildings.

Section 2. Nuisance. The result of every act or omission whereby any of the covenants contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowable at law or equity, against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any owner or its successors in interest, without derogation of the City's rights under law.

Section 3. Right of Entry. In addition to the above general rights of enforcement, the City shall have the right through its agents and employees, to enter upon any part of the project area for the purpose of enforcing the California Vehicle Code, and the ordinances and other regulations of the City, and for maintenance and/or repair of any or all publicly owned utilities. In addition, the City has the right of entry at reasonable hours and upon and after reasonable attempts to contact Developer, on any lot to effect emergency repairs or maintenance which the Developer has failed to perform. Subsequent to sixty (60) days written notice to the Developer specifically outlining the Developer's noncompliance, the City shall have the right of entry on the Site at reasonable hours to enforce compliance with this Declaration which the Developer has failed to perform.

Section 4. Costs of Repair. The costs borne by the City or Agency of any such repairs or maintenance emergency and/or non-emergency, shall become a charge for which Developer shall be responsible.

Section 5. Cumulative Remedies. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

Section 6. Failure to Enforce. The failure to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

Section 7. Enforcement and Nonliability. The City or Agency may from time to time make such efforts, if any, as it shall deem appropriate enforce and/or assist in enforcing this Declaration. However, neither the Agency nor the City will be subject to any liability for failure to affirmatively enforce any provision of this Declaration.

ARTICLE VI GENERAL PROVISIONS

Section 1. Covenant Against Partition. By acceptance of its interest in the Site, the Developer shall be deemed to covenant for itself and for its heirs, representatives, successors and assigns, that it will not institute legal proceedings or otherwise seek to effect partition of its right and

interest in the interest being conveyed to the Developer, or the burdens running with the land as a result of this Regulatory Agreement.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in all force and effect.

Section 3. Term. This Declaration shall run with and bind the interest of the Developer in the Site, and shall inure to the owner(s) of any property subject to this Declaration, his legal representatives, heirs, successors and assigns, and as provided in Article VI, Sections 2 and 3, be enforceable by the City, for a term equal to the Required Covenant Period as defined in the DA, provided; however, that the covenants regarding nondiscrimination set forth in Section 4 of Article II of this Declaration shall remain in effect for perpetuity.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of rental housing available at Affordable Rent for Very Low Income Households and Lower Income Households. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 5. Amendments. This Declaration may be amended only by the written agreement of the Developer, the Agency and the City.

Section 6. Encroachments. None of the rights and obligations of the Developer created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of Developer if said encroachment occurs due to the willful conduct of said Developer.

Section 7. Notices. Any notice permitted or required to be delivered as provided herein to Developer shall be in writing and may be delivered either personally or by certified mail. Notice to the Agency shall be made by certified mail to the Executive Director or his designee at 25541 Barton Road, Loma Linda, California 92354 (with a copy to Stradling Yocca Carlson & Rauth, Attention: Mark J. Huebsch, 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660), and shall be effective upon receipt. Notice to Developer shall be made by personal delivery or by certified mail to Ahd Haddad, 29848 Live Oak Canyon Road, Redlands, California 92373, and shall be effective upon receipt or within five (5) days of mailing, whichever shall first occur. Such address may be changed from time to time by notice in writing.

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: _____

By: _____
Dennis R. Holloway, Executive Director

ATTEST:

By: _____
Pamela Byrnes-O'Camb, Agency
Secretary

CITY OF LOMA LINDA,
a municipal corporation

Dated: _____

By: _____
Dennis R. Holloway, City Manager

ATTEST:

By: _____
Pamela Byrnes-O'Camb, City Clerk

AHD HADDAD,
a single man

Ahd Haddad

ATTACHMENT NO. 1
LEGAL DESCRIPTION

[To Come]

STATE OF CALIFORNIA

)

) ss.

)

COUNTY OF _____

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

Number Of Pages

Date Of Documents

Signer(s) Other Than Named Above

STATE OF CALIFORNIA)

)

) ss.

COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

Number Of Pages

Date Of Documents

Signer(s) Other Than Named Above

STATE OF CALIFORNIA)

)

) ss.

COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

☐ personally known to me

-or-

☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

Title Or Type Of Document

- ☐ Partner(s) ☐ Limited
☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

ATTACHMENT NO. 2

AFFORDABLE RENT WORKSHEET

1. Income Eligibility¹

The first step in determining eligibility for an affordable housing program is determining whether the family which will be purchasing or renting the housing unit meets the following income standards applicable to San Bernardino County, based upon the size of the family:

<i>Income Level</i>	<i>1 person household</i>	<i>2 person household</i>	<i>3 person household</i>	<i>4 person household</i>	<i>5 person household</i>	<i>6 person household</i>	<i>7 person household</i>	<i>8 person household</i>
<i>Extremely Low</i>	\$11,700	\$13,350	\$15,050	\$16,700	\$18,050	\$19,400	\$20,700	\$22,050
<i>Very Low</i>	\$19,500	\$22,250	\$25,050	\$27,850	\$30,050	\$32,300	\$34,500	\$36,750
<i>Lower</i>	\$31,200	\$35,650	\$40,100	\$44,550	\$48,100	\$51,700	\$55,250	\$58,800
<i>Median</i>	\$38,950	\$44,500	\$50,100	\$55,650	\$60,100	\$64,550	\$69,000	\$73,450
<i>Moderate</i>	\$46,750	\$53,450	\$60,100	\$66,800	\$72,150	\$77,500	\$82,850	\$88,200

2. Determining Affordable Rent

For rental housing, the second step in determining compliance with affordable housing requirements is determining whether the total rent costs payable by the tenant are within allowable amounts.

For **Extremely Low Income** Households:²

- renting a **0 bedroom** unit, monthly rent may not exceed **\$292.13**
- renting a **1 bedroom** unit, monthly rent may not exceed **\$333.75**
- renting a **2 bedroom** unit, monthly rent may not exceed **\$375.75**
- renting a **3 bedroom** unit, monthly rent may not exceed **\$417.38**
- renting a **4 bedroom** unit, monthly rent may not exceed **\$450.75**

¹ Based on currently effective median income of San Bernardino County, as set forth in 25 Cal. Code Regs. Section 6932, operative as of February 25, 2005. These median income numbers are revised annually.

² Affordable Rent for Extremely Low Income Households is the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate to the unit. Health and Safety Code Section 50053 (b)(1).

- renting a **5 bedroom** unit, monthly rent may not exceed **\$484.13**

For Very Low Income Households:³

- renting a **0 bedroom** unit, monthly rent may not exceed **\$486.88**
- renting a **1 bedroom** unit, monthly rent may not exceed **\$556.25**
- renting a **2 bedroom** unit, monthly rent may not exceed **\$626.25**
- renting a **3 bedroom** unit, monthly rent may not exceed **\$695.63**
- renting a **4 bedroom** unit, monthly rent may not exceed **\$751.25**
- renting a **5 bedroom** unit, monthly rent may not exceed **\$806.88**

For Lower Income Households:⁴

- renting a **0 bedroom** unit, monthly rent may not exceed **\$584.25**
- renting a **1 bedroom** unit, monthly rent may not exceed **\$667.50**
- renting a **2 bedroom** unit, monthly rent may not exceed **\$751.50**
- renting a **3 bedroom** unit, monthly rent may not exceed **\$834.75**
- renting a **4 bedroom** unit, monthly rent may not exceed **\$901.50**
- renting a **5 bedroom** unit, monthly rent may not exceed **\$968.25**

In addition, for any Lower Income Household whose income falls within the following guidelines, it is **optional** for the Agency to require that **affordable rent not exceed 30 percent of the gross income of the household**.⁵

- **1 person households** whose income is between **\$23,370 and \$31,200**
- **2 person households** whose income is between **\$26,700 and \$35,650**
- **3 person households** whose income is between **\$30,060 and \$40,100**
- **4 person households** whose income is between **\$33,390 and \$44,550**

³ Affordable Rent for Very Low Income Households is the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate to the unit. Health and Safety Code Section 50053 (b)(2).

⁴ Affordable Rent for Lower Income Households is the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate to the unit. Health and Safety Code Section 50053 (b)(3).

⁵ Health and Safety Code Section 50053 (b)(3).

- 5 person households whose income is between \$36,060 and \$48,100
- 6 person households whose income is between \$38,730 and \$51,700
- 7 person households whose income is between \$41,400 and \$55,250
- 8 person households whose income is between \$44,070 and \$58,800

For purposes of determining Affordable Rent, “Rent” is an average of estimated housing costs for the next twelve months. “Rent” includes the total of monthly payments for all of the following:⁶

- Use and occupancy of a housing unit and land and facilities associated therewith.
- Any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
- A reasonable allowance for utilities not included in the above costs, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels. Utilities does not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service.
- Possessory interest taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than the lessor.

⁶ 25 California Code of Regulations Section 6918.

ATTACHMENT NO. 3
INCOME VERIFICATION FORM

Part I -- General Information

1. Project Location: _____
2. Landlord's Name: _____

Part II -- Unit Information

- | | | | |
|-------------------|--------------------------|--------------------|---------------------------|
| 3. Unit
Number | 4. Number of
Bedrooms | 5. Monthly
Rent | 6. Number of
Occupants |
|-------------------|--------------------------|--------------------|---------------------------|

Part III -- Affidavit of Tenant

I, _____, and I, _____, as applicants for rental of an Apartment Unit at the above-described location, do hereby represent and warrant as follows:

- A. (My/Our) gross income (anticipated total annual income) **does not exceed fifty percent (50%)** of the median income for the area defined by HUD which includes and consists primarily of San Bernardino County as such income levels are established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and published by the State Department of Housing and Community Development in the California Code of Regulations. (I/We) understand that the applicable median income is \$ _____. The following computation includes all income (I/we) anticipate receiving for the 12-month period beginning on the date (I/we) execute a rental agreement for an Affordable Unit or the date on which (I/we) will initially occupy such unit, whichever is earlier.

Tenant(s)' Initials

- B. (My/Our) gross income (anticipated total annual income) exceeds fifty percent (50%) but **does not exceed eighty percent (80%)** of the median income for the area defined by HUD which includes and consists primarily of San Bernardino County as such income levels are established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and published by the State Department of Housing and Community Development in the California Code of Regulations. (I/We) understand that the applicable median income is \$ _____. The following computation includes all income (I/we) anticipate receiving for the 12-month period beginning on the date (I/we) execute a rental agreement for an Affordable Unit or the date on which (I/we) will initially occupy such unit, whichever is earlier.

Tenant(s)' Initials

- C. (My/Our) gross income (anticipated total annual income) exceeds eighty percent (80%) but **does not exceed one hundred twenty percent (120%)** of the median income for the area

defined by HUD which includes and consists primarily of San Bernardino County as such income levels are established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and published by the State Department of Housing and Community Development in the California Code of Regulations. (I/We) understand that the applicable median income is \$ _____. The following computation includes all income (I/we) anticipate receiving for the 12-month period beginning on the date (I/we) execute a rental agreement for an Affordable Unit or the date on which (I/we) will initially occupy such unit, whichever is earlier.

Tenant(s)' Initials

- D. (My/Our) gross income (anticipated total annual income) **exceeds one hundred twenty (120%)** of the median income for the area defined by HUD which includes and consists primarily of San Bernardino County as such income levels are established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and published by the State Department of Housing and Community Development in the California Code of Regulations. (I/We) understand that the applicable median income is \$ _____. The following computation includes all income (I/we) anticipate receiving for the 12-month period beginning on the date (I/we) execute a rental agreement for an Affordable Unit or the date on which (I/we) will initially occupy such unit, whichever is earlier.

Tenant(s)' Initials

1. Tenants qualifying as A and B, above, must complete the following:

Monthly Gross Income (All Sources of Income of All Adult Household Members Must be Listed)

Source	Head of Household	Co-Tenants	Total
Gross amount, before payroll deductions of wages, salaries, overtime pay, commissions, fees, tips and bonuses			
Interest and/or dividends			
Net income from business or from rental property			
Social security, annuities, insurance policies, pension/retirement funds, disability or death benefits received periodically			
Payment in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay			
Alimony, child support, other periodic allowances			
Public assistance, welfare payments			
Regular pay, special pay and allowances of members of Armed Forces			
Other			

Total: _____

Total x 12 _____ = Gross Annual Household Income

Note: The following items are **not** considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payments such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation).

capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; government benefits to a veteran for education; special pay to a serviceman head of family away from home and under hostile fire; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; relocation payments under Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

2. This affidavit is made with the knowledge that it will be relied upon by the Landlord to determine maximum income for eligibility and (I/we) warrant that all information set forth in this document is true, correct and complete and based upon information (I/we) deem reliable and that the estimate contained in paragraph 1 of this Part III is reasonable and based upon such investigation as the undersigned deemed necessary.
3. (I/We) will assist the Landlord in obtaining any information or documents required to verify the statements made in this Part III and have attached hereto copies of federal income tax return for most recent tax year in which a return was filed (past two years federal income tax returns for self-employed persons).
4. (I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) agreement with the Landlord to rent the unit and will additionally enable the Landlord and/or the Loma Linda Redevelopment Agency to initiate and pursue all applicable legal and equitable remedies with respect to the unit and to me/us.

(I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct.

Date

Tenant

Date

Tenant

INCOME VERIFICATION
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed under a multifamily housing program of the City of Loma Linda and the Loma Linda Redevelopment Agency for persons of very low or low income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages _____

Overtime _____

Bonuses _____

Commissions _____

Total current income _____

I hereby certify that the statements above are true and complete to the best of my knowledge.

_____ Signature	_____ Date	_____ Title
--------------------	---------------	----------------

I hereby grant you permission to disclose my income to _____ in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed under a multifamily housing program of the City of Loma Linda and the Loma Linda Redevelopment Agency.

_____ Signature	_____ Date
--------------------	---------------

Please send to:

INCOME VERIFICATION
(for self-employed persons)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Signature

Date

